

# MAINE STATE LEGISLATURE

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# REPORT

OF THE

## COMMISSIONERS

APPOINTED TO REVISE THE

# PUBLIC LAWS

OF THE

## STATE OF MAINE.

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### TITLE III.

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**Augusta:**

SMITH & ROBINSON, PRINTERS TO THE STATE.

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1840.



## TITLE THIRD.

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

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- Chap.* 17. Of the education of youth.
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  19. Of meeting houses.
  20. Of ministerial and school lands, and the funds arising therefrom.
  21. Of the prevention of contagious sickness.
  22. Of the practice of physic and surgery.
  23. Of burying grounds.
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  31. Of keeping watch and ward in towns—and disorders in streets and public places.
  32. Of paupers, their settlement and support.
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## CHAPTER 17.

### OF THE EDUCATION OF YOUTH.

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  3. Appointment of school district agents.
  4. Districts formed from two or more towns.
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ARTICLE I. *Of the general duties of towns.*

SECT. 1. The school districts in the several towns in this State  
 2 shall remain as now established, until altered or discontinued  
 3 according to law. 1834, 129, § 6.

SECT. 2. The inhabitants of every town, at their annual  
 2 meeting, may determine the number and limits of the school  
 3 districts within such town, and if necessary, may divide or dis-  
 4 continue any such district or annex it to any other district in  
 5 such town, with such reservations and conditions as may be  
 6 proper to preserve the individual rights and obligations of the  
 7 inhabitants thereof. 5 Pickering, 323.

SECT. 3. Every town at its annual meeting for the choice of  
 2 town officers shall choose an agent for each school district in  
 3 such town; or at such meeting the town may, by vote authorize  
 4 the several school districts to choose one or more agents for  
 5 themselves, for the year ensuing. 5 Pick. 323, § 3.

SECT. 4. Whenever it shall be found convenient to form a  
 2 school district from parts of adjoining towns, such towns res-  
 3 pectively concurring therein may establish such district and  
 4 determine the limits thereof; and such towns by their concurrent  
 5 votes may alter and discontinue the same, and they and their  
 6 officers, except as otherwise provided in this chapter, may exer-  
 7 cise all the powers and duties in reference to such districts, as  
 8 may be exercised by any town in reference to school districts,  
 9 within its own limits. 5 Pick. 323, § 6.

SECT. 5. Every district established by two or more towns  
 2 shall choose its own agent, annually, and his contracts for  
 3 instruction, shall be binding upon such towns respectively, in  
 4 proportion to and not exceeding the amount which each town  
 5 is required to pay to such agent, under the provision of this  
 6 chapter. 5 Pick. 323, § 7.

SECT. 6. Every town shall annually raise and expend for the  
 2 maintenance of schools therein, to be taught by masters or mis-  
 3 tresses duly qualified, a sum of money exclusive of the income of  
 4 any corporate school fund or of any grant from the revenue or  
 5 funds from the State, or of any voluntary donation, devise or  
 6 bequest, or of any forfeitures accruing to the use of schools, not  
 7 less than forty cents, for each inhabitant, the number to be  
 8 computed according to the last preceding census of the State,  
 9 under which the representation thereof in the Legislature, shall  
 10 have been apportioned. 1832, 39, § 3. 1833, 82, § 7.

SECT. 7. The assessors of every town shall assign to each school district within such town a proportion of the money raised in each year for the support of schools or derived from any corporate school fund, grant from the State, or any other fund at the disposal of such town for the general benefit of schools therein, according to the number of children in such districts respectively of at least the age of four and under twenty-one years, exclusive of those attending collegé or academy or laboring in any factory within any such district, on the first day of May annually. 1832, 39, § 3. 1833, 82, § 6.

SECT. 8. Whenever any town shall raise a sum of money exceeding the amount required by section sixth of this chapter, the excess may be appropriated to some more general purpose of instruction, or it may be distributed amongst the several school districts in such manner, as the town may determine. 1833, 82, § 5.

SECT. 9. The assessors of each town, from which any part of such district, as is provided in the fourth section of this chapter, shall have been formed, shall assign to such district a proportion of the money by law to be distributed amongst the districts in such town according to the number of such children belonging to such town within the limits of the said school district.

SECT. 10. If any town shall fail annually, to raise and expend for the support of schools the amount of money required by the aforesaid sixth section, such town shall forfeit and pay a sum not less than twice nor more than four times the amount of such deficiency. 1833, 82, § 5.

SECT. 11. 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 selectmen 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 shall be added to the next town tax of such delinquent parent, master or guardian. 1833, 82, § 3.

SECT. 12. Every town at its annual meeting, shall choose a superintending school committee, consisting of not less than three nor more than five persons, who shall be duly sworn. 1833, 82, § 3.

SECT. 13. Every town, which shall in any year neglect to choose such superintending committee, shall forfeit and pay not less than thirty nor more than two hundred dollars. 1833, 82, § 5.

SECT. 14. Any island not containing inhabitants enough for a convenient separate organization as a district and too remote from the main 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

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7 on such island, of the ages specified in section seventh, to be  
8 expended by such inhabitants for the purpose of instruction  
9 thereon, in such manner as the superintending committee shall  
10 order or approve in writing, under their hands.

1833, 82, § 18.

SECT. 15. Whenever at any meeting of a school district  
2 legally called for raising money for any particular purpose, a  
3 majority of the legal voters present, shall be opposed to the  
4 raising of any sum of money deemed by the minority sufficient  
5 for that purpose, the selectmen of the town or on application  
6 in writing of any five or more such voters in such district made  
7 within thirty days after such meeting, shall insert in their war-  
8 rant for calling the next town meeting on town affairs an article  
9 requiring the opinion of the town on the subject of disagreement;  
10 and if the town at such meeting shall think it necessary or expe-  
11 dient, they may require a sum sufficient for the purpose aforesaid,  
12 if exceeding what said district were willing to raise, to be  
13 assessed upon the polls and estates in such district, and the same  
14 shall thereupon be assessed and collected and paid over in the  
15 same manner, as if originally raised by such district, as provided  
16 in the sections numbered from twenty-eight to thirty-six, inclu-  
17 sive, of this chapter.

1833, 82, § 12.

SECT. 16. At any district meeting called for the purpose of  
2 erecting or locating a school house in any district, where none  
3 exists, 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 majority in favor of the  
6 object in the former case shall be less than three fourths and in  
7 ~~the latter case shall be less than two thirds~~ of the legal voters in  
8 said district, the clerk at the meeting shall make a record of the  
9 fact; and the selectmen of the town, on application in writing  
10 from any two or more of the voters in such district or of any  
11 committee of such district, made within thirty days thereafter-  
12 wards, may appoint a time and place, within the district to  
13 hear the inhabitants thereof on the subject matter of such disa-  
14 greement, and give such notice as is required for a legal meeting  
15 of the inhabitants of said district, and after such hearing, may  
16 decide upon where such school house shall be placed and shall  
17 give a certificate of their determination to the clerk of the district,  
18 who shall forthwith enter the same upon his records; and the  
19 district shall proceed to erect or remove the school house in the  
20 same manner as if determined by a sufficient majority of the  
21 district. If no such application be made to the selectmen within  
22 thirty days as aforesaid, the vote of the district shall be valid.

1833, 82, § 13.

SECT. 17. If the district shall refuse or for the space of —  
2 days neglect to carry into effect the order of the selectmen as  
3 aforesaid, the selectmen either personally or by agents appointed  
4 for the purpose and at the expense of the district, shall, if  
5 need be, purchase a situation for said house, and may cause the

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6 same to be erected or removed upon the place so appointed as  
7 case may be. 1833, 82, § 13.

SECT. 18. When any district is composed of parts of two or  
2 more towns, the powers specified in sections fifteenth and  
3 sixteenth of this chapter to be exercised by any town or the  
4 selectmen of any town, may be exercised by the concurrent vote  
5 of said towns or the joint acts of the selectmen of such towns,  
6 and application shall be made to each of them accordingly.

1833, 82, § 6.

SECT. 19. Any town, that shall by a standing vote provide for  
2 the purpose, may instead of a superintending committee and  
3 school agents as herein before provided, until they rescind such  
4 vote, elect their superintending committee of such number as  
5 they shall think proper, and may invest such committee with the  
6 rights, powers and obligations pertaining to school agents as well  
7 as to a superintending committee, including the power and duty  
8 of determining the age at which scholars may be admitted into  
9 the respective schools, of transferring scholars from one school  
10 to another, and of laying out the money raised for supporting  
11 schools, and defraying the contingent expenses thereof, and such  
12 others of said powers as may be useful and necessary in man-  
13 aging the business committed to them. 1833, 82, § 17.

**ARTICLE II.—***Of the powers and obligations of school districts, and the assessment and collection of monies raised by such districts.*

SECT. 20. Every school district, established as provided in  
2 this chapter, whether being a part of one or of more towns,  
3 shall be a body corporate, with power to sue and be sued, and  
4 to hold any estate real or personal for the purpose of supporting  
5 a school or schools therein, and to apply the same, to such object  
6 agreeably to the provisions of this chapter, independently of the  
7 money raised by the town for that purpose.

1834, 129, § 6.

SECT. 21. In all transactions by or with school districts, they  
2 may be described by their numbers in the order of their creation  
3 under the votes of the town, or by any descriptive name, which  
4 they may assume or by such general description, as may be  
5 applicable, if they have no certain name.

SECT. 22. Any person qualified to vote in town affairs, shall  
2 be a legal voter in the school district in which he resides.

1834, 129, § 11.

SECT. 23. School district meetings, may be called, on the  
2 written application of any three or more of the legal voters in  
3 such districts respectively, stating the reasons and objects of the  
4 proposed meetings, by the selectmen of the town, containing  
5 such district, or of the oldest town out of which any part of said  
6 district is taken, or by the school district agent or agents if any  
7 have been appointed. 1834, 129, § 11.

SECT. 24. On receiving any such application, the selectmen  
2 of the town or the district agent, as the case may be, shall cause  
3 notices specifying the time, place and purposes of the meeting  
4 seven days previous to the time appointed to be posted up in two  
5 or more public places within the district, one of which must be  
6 on the school house, if there be any in the district, and also to  
7 be published in a newspaper printed in the town, where such  
8 district is located, 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. 1834, 129, § 11.

SECT. 25. Every school district at any legal meeting thereof,  
2 may determine the manner in which notice of its future meetings  
3 shall be given. 1834, 129, § 11.

SECT. 26. 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; and at the first meeting every year, a clerk shall  
4 also be chosen and shall be duly sworn by the moderator or a  
5 justice of the peace. It shall be the duty of the clerk to make  
6 a fair record of all votes passed at any meeting of the district  
7 during the year and until another shall be chosen in his place  
8 and sworn, and he may certify copies from the records of such  
9 district. 1834, 129, § 11.

SECT. 27. Such district may also at any legal meeting choose  
2 a committee to superintend the laying out and expending of the  
3 monies raised by such district, agreeably to their votes for any  
4 purposes mentioned in the following section and to examine  
5 and allow such accounts, as they may find correct and to draw  
6 orders on the town treasurer for the amount of the monies raised.  
1834, 129, § 11.

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—

4 *First*—To raise money for the purpose of erecting, repairing,  
5 purchasing and removing a school house, and of purchasing  
6 land upon which the same may stand, and utensils, and also for  
7 erecting or removing such out buildings connected therewith,  
8 and to sell and dispose of any such property as may be neces-  
9 sary and proper;

10 *Secondly*—To determine where the school house shall be  
11 erected or located in said district;

12 *Thirdly*—To determine at what age the youth within such dis-  
13 trict may be admitted into the schools kept by a master or  
14 mistress respectively, and whether and upon what terms schol-  
15 ars may be admitted into such schools from other school districts  
16 or from other towns or places; and

17 *Fourthly*—If they think proper to instruct the agent at what  
18 time their schools shall commence; with which directions the  
19 agent shall comply so far as practicable. 1834, 129, § 8.

SECT. 29. When any money shall be voted to be raised by  
2 any district pursuant to the first specification of the preceding  
3 section, the clerk shall forthwith or within such time as the dis-  
4 trict may prescribe, certify to the assessors of the town in which  
5 such district is located, if wholly within the limits of any one  
6 town, otherwise to the assessors of the eldest town out of which  
7 any part of such district is taken the amount voted to be raised  
8 for any or all the purposes aforesaid. 1834, 129, § 9.

SECT. 30. 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,  
5 whether it be wholly within their town or not, and on lands  
6 lying within the same belonging to persons not living therein  
7 whether improved or unimproved, all monies voted to be raised  
8 by the inhabitants of such district for the purposes aforesaid ;  
9 provided that no inhabitant shall be taxed for any real estate not  
10 lying within such district. 1834, 129, § 9.

SECT. 31. Said assessors shall make their warrant in due form  
2 of law directed to any one of the collectors of their town or a  
3 constable, if there be no collector, requiring and empowering  
4 said collector or constable to levy and collect the tax so assessed,  
5 and pay the same, within the time limited by the warrant to the  
6 treasurer of the same town, to whom also the assessors shall  
7 give a certificate of the assessment as in the case of town taxes.

1834, 129, § 9.

SECT. 32. Such collector or constable in collecting such  
2 taxes, shall have the same powers and be held to proceed in the  
3 same manner as in the collection of town taxes.

1834, 129, § 9.

SECT. 33. 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 the section last but one preceding, shall have the  
4 same authority to enforce the collection and payment thereof or  
5 sue for the same, as of town taxes, and if such treasurer be also  
6 the collector of such towns, he may collect the same in the  
7 same manner as far as applicable to the case.

1834, 129, § 10.

SECT. 34. The said assessors shall have the like power to  
2 abate any such district tax, as they have to abate a town tax.

1834, 129, § 10.

SECT. 35. 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 section twenty-fifth of  
4 this chapter. 1834, 129, § 9.

SECT. 36. Such assessors, collector or constable and treas-  
2 urer, shall be allowed, by the school district for assessing,  
3 collecting and paying any district tax, a compensation propor-  
4 tionate to what they receive for similar services for town taxes.

1834, 129, § 10.

SECT. 37. Any district may appropriate a part, not exceeding one third, unless as provided in the following section, of their proportion of the money paid to them, under the provisions of the seventh section of this chapter, to a school to be taught by a mistress. 1834, 429, § 1.

SECT. 38. Every district shall have a right to appropriate at least the sum of thirty-five dollars, if received by them, to the support of such school to be taught by a mistress, and in case one third part as aforesaid, shall exceed thirty-five dollars they may appropriate more than such third part by a vote passed by any legal meeting, to the support of such school to be taught by a mistress, provided the superintending school committee, shall in writing certify their approbation and not otherwise. 1834, 429, § 1.

SECT. 39. Whenever the schools in any district, shall be kept in part by a mistress and in part by a master, the inhabitants of such district at a legal meeting may determine by vote, or may authorize the superintending committee, to determine, from time to time, what description of scholars, shall attend each school respectively. 1834, 429, § 1.

SECT. 40. Every school district, when authorized to elect their agent as provided in sections fourth and fifth of this chapter, shall choose him by ballot, at any meeting to be called for the purpose.

### ARTICLE III.—*Of the duties and powers of the superintending school committees and school agents and the qualifications and duties of instructors.*

SECT. 41. All superintending school committees appointed as provided in section twelfth of this chapter shall possess the following duties to wit: 1834, 129, § 3.

4 *First*, To fill any vacancy happening in their board during their term of office;

6 *Secondly*, To examine schoolmasters and mistresses proposing to teach in the town;

8 *Thirdly*, To direct the general course of instruction, and what books shall be used in the respective schools;

10 *Fourthly*, To visit and inspect the several schools and inquire into the regulations and discipline thereof, and of the proficiency of the scholars therein, and to use their influence and best endeavors, that the youth in the several districts regularly attend the schools; and particularly to provide that one or more of the board shall visit each school within the town, at least twice during the term for which it is kept, once within ~~three~~ <sup>two</sup> weeks from the commencement thereof and once within two weeks before the close thereof; ~~Under the town~~ <sup>shall visit</sup>

19 *Fifthly*, After due notice and a candid investigation of the facts, to dismiss any school master or mistress, who shall be <sup>five times</sup> found in their opinion incapable or unfit to teach, notwithstanding

ing their having procured the requisite certificates; provided that such dismissal shall not operate to deprive such master or mistress of their right to compensation, for services previous to such dismissal;

*Sixthly*, 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;

*Seventhly*, Within fourteen days immediately preceding the annual town meeting to make a return according to the best of their knowledge and belief of the time that schools have been kept in the several districts, designating how much of the time they have been kept by masters or mistresses respectively and the average number of scholars, who have attended each of the schools; and 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.

SECT. 42. School agents, whether elected by the towns or by their respective districts, shall be duly sworn, and shall continue in office one year and until others are chosen in their stead, their duties and powers, shall be as follows—

*First*—To hire the schoolmasters or mistresses for their respective districts from the money assigned to them by the assessors of their towns pursuant to the provisions of the seventh section of this chapter, and from any other funds placed at their disposal for the purpose.

*Secondly*—From the same means to provide fuel and utensils necessary for the schools, and to make incidental repairs upon the school houses and out buildings; provided that no more than one tenth part of the monies received from the town shall in any one year be expended for such repairs and utensils, exclusive of fuel;

1834, 129, § 3, 4.

*Thirdly*—Before the commencement of any term of such schools to give notice to a member or members of the superintending school committee of the town or oldest town out of which the district is formed if more than one, of the time when the school is to commence, whether to be kept by a master or mistress and for how long a time such instructor is engaged; and

1834, 128, § 3.

*Fourthly*—To return to the selectmen of their respective towns in the month of May annually, a list by them certified to be true, of the children in their districts of the age of four years and upwards and under the age of twenty-one years, as they existed on the first day of said month, 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.

SECT. 43. No person shall be employed as a schoolmaster unless he ~~shall~~ be a citizen of the United States and ~~shall~~ produce to the agent employing him a certificate from the superintending school committee of the town where the school is to be kept, and also from some person of liberal education or literary pursuits, and good moral character residing within the State, that he is well qualified to instruct youth in reading, writing the English language grammatically and in arithmetic and other branches of learning usually taught in public schools. He shall also produce a certificate from the selectmen of the town, where he belongs, that to the best of their knowledge, ~~he is a person of sober life and conversation, and~~ sustains a good moral character. 1834, 129, § 4.

SECT. 44. No person shall be employed, as a school mistress, unless she shall produce to the agent employing her a certificate from the superintending school committee of the town where the school is to be kept, that she is suitably qualified to teach the English language grammatically and the rudiments of arithmetic, and writing, and produce satisfactory written evidence of her good moral character. 1834, 129, § 4.

SECT. 45. Any person who shall teach any district school under the provisions of this chapter without producing the certificates required by the two preceding sections respectively, shall forfeit and pay a sum not exceeding the sum contracted for his or her daily wages, for each day he or she shall so teach such school and shall be barred from recovering any pay for teaching the same. 1834, 129, § 5.

SECT. 46. When any school district shall have been formed from parts of two or more towns, the superintending school committee of the ~~elder~~ town, from which any part of such district is formed, shall have the same powers, and perform the same duties in giving certificates of qualification to instructors, directing what books shall be used, and in visiting, superintending and disciplining the school as they might have and perform, if such district were wholly within their town. 1834, 129, § 7.

SECT. 47. It shall be the duty of the presidents, professors and tutors of colleges, and of the preceptors and teachers of academies, and of all other instructors of youth, whether in public or private institutions, to take diligent care and exert their best endeavors to impress on the minds of the children and youth committed to their care and instruction, the principles of morality and justice, and a sacred regard to truth, love to their country, humanity and universal benevolence; sobriety, industry and frugality; chastity, moderation and temperance, and all other virtues, which are the ornaments of human society. And it shall be the duty of such instructors to endeavor to lead those under their care, as their ages and capacities will admit, into a particular understanding of the tendency of the before mentioned virtues to preserve and perfect a republican consti-

15 tution and secure the blessings of liberty, as well as to promote  
 16 their future happiness, and the tendency of the opposite vices to  
 17 slavery, degradation and ruin. 1834, 129, § 2.

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

SECT. 48. All forfeitures and penalties, for the breach of any  
 2 of the foregoing provisions of this chapter, shall be recovered  
 3 by indictment or information before any court of competent  
 4 jurisdiction; and it shall be the duty of all grand jurors to make  
 5 due presentment thereof, in all cases that shall come to their  
 6 knowledge, and such penalty, when recovered, shall in all instan-  
 7 ces be paid into the treasury of the town where the same was  
 8 incurred, for the support of schools therein in addition to the  
 9 amount required to be raised by the sixth section of this chapter;  
 10 but the costs of prosecution when recovered shall be paid into  
 11 the county treasury. 1834, 129, § 19.

SECT. 49. If any town shall neglect for the space of one  
 2 year so to appropriate and expend any fine or penalty, it shall  
 3 forfeit a sum equal to the said fine or penalty to the use of any  
 4 person, who may sue therefor, in an action of debt.

1834, 129, § 19.

SECT. 50. The treasurer of the State shall keep a separate  
 2 account of all monies he may have received or may hereafter  
 3 receive from the sales of land by the land agent or from the  
 4 notes taken therefor pursuant to the provisions of the first sec-  
 5 tion of an act passed February twenty-third, in the year eighteen  
 6 hundred and twenty eight, entitled an act providing for the pro-  
 7 motion of education, and the same shall constitute a permanent  
 8 fund to be reserved for the benefit of town or district schools—  
 9 The fund shall be put out on interest in such manner as the  
 10 Legislature shall from time to time determine and the income  
 11 thereof annually distributed amongst the towns in the State  
 12 according to the number of children therein of the ages speci-  
 13 fied in section seventh of this chapter, commencing at a time to  
 14 be hereafter prescribed, by the Legislature. 1828, 403, § 2.

SECT. 51. All the sums which may hereafter be received by  
 2 the State for the tax on the several banks, under the provisions  
 3 of the ——— section of chapter ——— shall continue to be  
 4 appropriated to the support of town or district schools.

1833, 82, § 1.

SECT. 52. The selectmen of the several towns shall annually  
 2 make out a statement containing the following particulars—that  
 3 is to say—

4 The number of school districts and parts of districts in their  
 5 towns respectively :

6 The number of children belonging to such town in each dis-  
 7 trict of the age of four years and upwards and under the age of

8 twenty-one years, as the same existed on the first day of May  
9 preceding :

10 The number of children, who usually attend school in each  
11 district :

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

15 The time schools have been kept in each district, designating  
16 how much by a master and how much by a mistress, and

17 The number of children of the ages above specified who  
18 reside upon islands or in any other part of the town, not classed  
19 with any district ; and

20 The selectmen shall under oath certify that such statement is  
21 true and correct according to their best knowledge and belief,  
22 and shall transmit the same to the office of the secretary of  
23 state on or before the twentieth day of January in each year.

1837, 256, § 2.

SECT. 53. The secretary of state, shall ascertain from the  
2 said statements, as soon as may be, the aggregate number of  
3 children between the aforesaid ages in the several towns from  
4 which returns shall be seasonably made, and immediately notify  
5 the treasurer of the State of the number so ascertained.

1833, 82, § 4

SECT. 54. The treasurer upon receiving such notification,  
2 shall distribute a sum equal to the whole amount received dur-  
3 ing the year last preceding from the tax of the several banks  
4 and from whatever other funds may from time to time be appro-  
5 priated to the same uses, amongst the towns within the State  
6 according to the number of children of the above described  
7 ages to them severally belonging, as exhibited in said notifica-  
8 tion, and shall as soon as may be, after the fourteenth day of  
9 February of the same year, pay to the treasurers of the towns  
10 respectively or to their order, the sums which shall fall to them  
11 on such apportionment.

1837, 256, § 3.

SECT. 55. The secretary of state, on or before the first day  
2 of October annually, shall furnish to the selectmen of the several  
3 towns, blank forms of the returns required to be made by them  
4 to him under the provisions of the fifty-second section and to  
5 be made by the superintending school committees of each town,  
6 to the selectmen, under the provisions of the forty-first section  
7 of this chapter.

1837, 256, § 4.

SECT. 56. No person shall be elected to the office or place of  
2 president of any college in this State, unless he shall receive  
3 two thirds of all the votes given on the question of his election  
4 in the board of trustees of such college and in the board of  
5 overseers, where the concurrence of such board shall be neces-  
6 sary to confirm a choice.

1831, 517, § 1.

SECT. 57. The tenure of office of such president shall be such,  
2 that he shall be removable at any time at the pleasure of the  
3 trustees and overseers, whose concurrence is necessary for an  
4 election to the same office.

1831, 517, § 1.

*Chow*



SECT. 58. All fees paid by any person for any diploma, or any medical degree, granted or conferred by either of the colleges in this State shall be paid into the treasury for the use of such college; and no part thereof shall be received as a perquisite of office by any officer of the college. 1831, 517, § 2.

SECT. 59. No innholder, tavern keeper, retailer, confectioner or keeper of any shop or boarding house, for the sale of drink or food, or any livery stable keeper for horse or carriage hire, shall give credit to any under-graduate or pupil of any college or other institution in this State incorporated for the instruction of youth, without the consent of the president or such officer of such college or other institution, as may be authorized thereto by the government thereof, nor in violation of any rules and regulations thereof. 1821, 167, § 1.

SECT. 60. No person shall be licensed by the selectmen of any town, for either of the employments aforesaid, if it shall appear that he has, within the year last past, given credit to any such under-graduate, or pupil, contrary to the provisions of the preceding section. 1821, 167, § 2.

SECT. 61. If any person shall give credit to any such under-graduate or pupil contrary to the said provisions, he shall forfeit a sum equal to the amount so credited, whether the same shall have been paid, or not; to be recovered by the treasurer of such college or other institution in action of debt, one half to the use of such college or institution, and the other half to the use of the town where the same is established. 1821, 167, § 3.

SECT. 62. In the construction of this chapter, the word town shall include city and plantation, except where such construction may be inconsistent with the context; and the duties and powers of the selectmen shall be in the same manner attributed to the of cities and assessors of plantations; and other officers of cities and the plantations respectively shall be included in the description of town officers, having like authority in other cases.

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## NOTES.

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SECT. 15, 16, 17 and 18. These sections express in detail what is presumed to be convenient to carry into effect the provisions of the existing law on the same subjects.

SECT. 41. The provision contained in the seventh specification in this section seems to be necessary in order to enable the selectmen to make their returns to the secretary of state—viz: Stat. 1837, Ch. 256, Sec. 2, revised in section 52 of this chapter. It will not add much to the labor of the school committees, and their inquiries for this purpose will naturally lead to other information respecting the condition of the schools, so important for the committee to obtain. Vi. Sect. 55, respecting blank forms for this object.

SECT. 59, 60 and 61. The restrictions in these sections by the existing laws are confined to credit given to members of colleges; the commissioners have thought that their extension to academies and other literary institutions might be equally desirable.

CHAPTER 18.

OF PARISHES AND MINISTERIAL LANDS.

- 
- Sect.* 1. Mode of forming a parish.  
 2. May choose officers, &c. and assume a name.  
 3. May take property, hold or sell it.  
 4. How annual or other meetings may be called.  
 5. Moderator's power.  
 6. When assessors refuse to call meetings—a justice may.  
 7. Parish may vote money, &c.  
 8. How monies may be assessed.  
 9. If taxes are not paid—proceedings.  
 10. Monies paid for tax, shall be paid over to such teacher of his own sect, as the owner may designate.  
 11. How a person may become a member of a poll parish.  
 12. How, of a territorial parish.  
 13. A person ceasing to be a member of a parish, liable for monies raised before he left it.  
 14. A person filing a certificate, ceases to be a member.  
 15. No person shall be compelled to join a parish.  
 16. All territorial parishes heretofore established shall remain unaffected by this chapter.  
 17. Any person removing into a territorial parish thereby becomes a member of it.  
 18. Persons arriving at age of 21 in a territorial parish shall continue members of such parish, until they shall join another.  
 19. When one or more parishes are set off in a town the remaining is the first parish.  
 20. Deeds to pious uses—how made.  
 21. Same subject.  
 22. How such lands can be conveyed.  
 23. Same subject.  
 24. Limitation as to amount of such property.  
 25. Records of parishes open to inspection.  
 26. Parishes may appoint their treasurer the collector in same manner as towns.  
 27. May vote abatements, on payment made at certain times.  
 28. Assessors shall give treasurer a warrant for collection of taxes.  
 29. Grants and donations to quaker meetings, &c. to be held by them as a corporation.  
 30. Certain other grantees or donors may hold, &c. and sue for and recover property where the right has vested.  
 31. Legislature may modify above powers.
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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.

1821, 135, § 1.

SECT. 2. Such persons so assembled, may choose a clerk and  
 2 other needful parish officers; and shall thereupon become, and

3 are hereby declared to be, a corporation and body politic, and  
4 shall bear such name as they shall assume, and have all the  
5 powers incident to parishes and religious societies.

1821, 135, § 1.

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

1821, 135, § 2.

SECT. 4. The annual or other meetings of such parish may  
2 be called by the assessors, to be held at such time and place in  
3 the town, where they are usually held; and they shall be notified  
4 in the manner prescribed in the first section of this chapter; or  
5 such other manner as may be agreed on by a vote of the parish;  
6 and being so assembled they may choose a clerk, who shall be  
7 sworn to the faithful discharge of the duties of his office, and  
8 also two or more assessors, a collector, treasurer and standing  
9 committee, and any other needful officers.  
10 The assessors shall manage the prudential concerns of the  
11 parish;—after having been duly sworn.

1821, 135, § 3.

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.

1821, 135, § 4.

SECT. 6. When five members of any parish shall in writing  
2 request the assessors to insert any particular article in the war-  
3 rant for calling a parish meeting, it shall be their duty to  
4 insert it.

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  
4 the written application of five or more members thereof, may  
5 issue his warrant to one of the applicants, who shall notify such  
6 meeting in the manner prescribed in the first section, or the  
7 manner agreed on by vote if any such exists.

1821, 135, § 5.

SECT. 8. Every parish may at a legal meeting vote and grant  
2 such sums of money as may be necessary for the support of the  
3 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 in the  
6 same manner as state taxes.

1821, 135, § 6.

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

1821, 135, § 6.

SECT. 10. When taxes so assessed on pews and seats shall remain unpaid for six months after the assessment thereof, the treasurer shall sell the same at auction, first posting notice of such intended sale at the principal outer door of such house of worship three weeks before the time of sale, stating the numbers, if any, of the pews or seats and the amount of the tax due on each, and shall execute and deliver to the purchaser of any pew or seat, a deed thereof, paying over to the owner the overplus, if any, of the money arising from the sale, after deducting the amount of tax and the incidental charges. 1821, 135, § 6.

SECT. 11. All monies paid by any person for the support of public worship, by a tax on any pew or seat, as above mentioned, shall be paid over to such teacher of his own religious sect as he may designate, he leaving a written notice of such designation with the clerk of such parish, on or before the annual meeting, unless such owner shall use such pew or seat himself or by his family or other person occupying it under him; and it shall be sufficient that such teacher be ordained or qualified according to the usages of his particular sect or communion. 1821, 135, § 7.

SECT. 12. Any person may become a member of any parish or religious society now existing, or hereafter created, by being accepted as such by the parish of which he wishes to become a member, at a legal meeting of the same, and by giving notice thereof in writing to the clerk of the society which he is about to leave, which notice said clerk shall record. 1821, 135, § 8.

SECT. 13. But a member of any parish may become a member of a *territorial* parish, without being admitted in the manner prescribed in the preceding section. 1821, 135, § 8.

SECT. 14. Every person ceasing to be a member of any parish other than a territorial one, shall be liable to be taxed for all monies raised by such parish or society, before he ceased to be a member of it. 1821, 135, § 8.

SECT. 15. Any person may dissolve his connection with a parish or religious society, by leaving with the clerk thereof a certificate of his intention so to do, and he shall thereby cease to be a member of the society with whose clerk it is left, and is no longer liable to pay any part of any future expenses which may be incurred by such parish or society. 1821, 135, § 8.

SECT. 16. No person shall be compelled to join or be classed with any religious society or parish without his consent. 1821, 135, § 8.

SECT. 17. All territorial parishes heretofore established shall remain unaffected by the provisions contained in this chapter. 7 Greenleaf, 411.

SECT. 18. Any person removing into and residing in a territorial parish, thereby becomes a member of such parish and continues such, until he shall cease to be an inhabitant thereof, or becomes a member of some other parish in the manner prescribed in this chapter. 7 Greenleaf, 411.

SECT. 19. And every person, capable of becoming a member  
2 of a parish in virtue of this chapter, who on arriving at the age  
3 of twenty one, was, or shall be an inhabitant within the limits  
4 of a territorial parish, shall continue a member of such parish  
5 until he shall legally become a member of some other parish.

7 Greenleaf, 411.

SECT. 20. When one or more parishes shall be set off from a  
2 town, or incorporated within its limits in the manner prescribed  
3 in this chapter the remaining part of the town shall constitute  
4 the first parish.

6 Greenleaf, 355.

SECT. 21. The deacons of all protestant churches, not being  
2 episcopal churches, and the church wardens of episcopal  
3 churches, are and shall be deemed so far bodies corporate as to  
4 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; and whenever the ministers, elders or vestry  
7 shall in such grants or donations have been joined with such  
8 deacons or church wardens as donees or grantees in succession,  
9 in such cases, such officers and their successors together with  
10 the deacons and church wardens shall be deemed the corpora-  
11 tion for such purposes.

1821, 42, § 1.

SECT. 22. And the minister or ministers of every parish or  
2 religious 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 shall  
5 be capable of taking in succession any estate granted to the  
6 minister and his successors or for the use of the ministry or the  
7 poor of the church and of prosecuting and defending all suits  
8 respecting the same.

1821, 135, § 10.

SECT. 23. But no alienation of any such estate by any minis-  
2 ter shall be valid any longer than during such alienors continu-  
3 ing in the ministry.

1821, 135, § 10.

SECT. 24. And no alienation of such estate by such elders,  
2 deacons, trustees, stewards or presiding officers shall be valid  
3 any longer than the continuance in office of such alienors, if  
4 made without consent of the church; or if made by church  
5 wardens without the consent of the vestry.

1821, 135, § 10.

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

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

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 estate of the members  
4 thereof, such parish or society may appoint their treasurer a

5 collector of taxes, with the same power as is provided for a  
6 treasurer of a town, who has been appointed a collector of said  
7 town, according to the provisions contained in the one hundred  
8 forty-seventh section of the chapter respecting the assessment  
9 and collection of taxes being chapter ——— with similar  
10 powers to appoint deputies, whom he shall require to give bond,  
11 with such sufficient sureties and in such sums as the assessors  
12 shall direct. 1825, 296, § 1.

SECT. 28. And such parish or society may by vote, authorize  
2 similar abatements upon taxes to be paid into such collector and  
3 treasurer or his deputy within thirty, sixty and one hundred and  
4 twenty days, after the delivery of the tax bills, or at such other  
5 periods as the parish or society may, in legal meeting establish;  
6 and such taxes as shall not be paid within the periods above  
7 mentioned or others agreed upon, shall be collected by the  
8 treasurer in the same way as town taxes in such circumstances.

1825, 296, § 2.

SECT. 29. The assessors who shall regulate the collection of  
2 their taxes agreeable to the provisions of this act, shall deposit  
3 the same in the hands of the treasurer and collector for collec-  
4 tion, with a warrant for that purpose, after he shall have been  
5 duly qualified, and his deputies, and at or before that time post  
6 up a notification, with a copy of the preceding section of this  
7 chapter, at the principal outer door of the meeting house or place  
8 of public worship of such parish or society, or at such other  
9 place as may be designated at any legal meeting for posting up  
10 notifications for calling their meetings for prudential affairs.

1825, 296, § 3.

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

1825, 298, § 1.

SECT. 31. Such overseers may also take and hold, as a cor-  
2 poration in succession all grants and donations of real estate,  
3 situate 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 to  
6 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 in which the same may have

10 been made; and sue for any right that may have vested in any  
 11 of the before named grantees or donees; provided that the  
 12 income thereof to any one of such meetings for the uses afore-  
 13 said shall not exceed five thousand dollars per annum.

1825, 298, § 2.

SECT. 32. The powers granted in the two preceding sections,  
 2 may be enlarged, restrained or repealed at the pleasure of the  
 3 Legislature.

1825, 298, § 3.

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## NOTES.

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SECT. 17. Declares the law as now settled in this State.

SECT. 20. This section is also merely declarative of the law as decided in numerous cases in Massachusetts, and this State.

SECT. 23 and 24. These two sections introduce no new principle, but merely affirm the doctrine which has been constantly applied in all such cases; so as not to have the designs of the grantor disturbed or the conditions violated.

SECT. 25. The commissioners have proposed *three* instead of two thousand dollars, considering the difference in the value of money, since the original law was created.

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## CHAPTER 19.

### OF MEETING HOUSES.

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Sect. 1. Individuals may be incorporated to build meeting-houses.

2. Owners of such houses, not a parish, may be incorporated for repairing, enlarging the same, &c.

3. Three-fourths of an old or unoccupied meeting-house may sell it, &c.—and divide the proceeds.

4. Owners of meeting-houses and pews may be incorporated.

5. Mode of becoming incorporated.

6. When assembled, may choose officers, &c.

7. Such corporation by a major vote, may control the use of same, &c.—and proviso, &c.

8. Minority in interest may have a division of time, as to use of a house belonging to owners of different denomination—how division made.

9. Mode of proceeding.

10. Same subject.

11. How expenses are to be paid.

12. Minority may occupy their share of the time, terms on which majority may buy them out, and consequences if minority decline to sell.

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SECT. 1. Any number of individuals may incorporate them-  
 2 selves for the purpose of erecting a meeting house, in the same  
 3 manner, and with the same effect as parishes may by law incor-  
 4 porate themselves, and may choose all officers, and do all those

5 acts which a parish may do in the exercise of its lawful author-  
6 ity. 1828, 377.

SECT. 2. The owners of any meeting house, not constituting  
2 a parish, shall have power to incorporate themselves for the pur-  
3 pose of repairing, enlarging and removing the same, in like  
4 manner as parishes may incorporate themselves, and may choose  
5 officers, raise and assess taxes for the sole purposes aforesaid,  
6 and may do all those things which a parish can, in virtue of the  
7 authority legally vested in them. 1834, 128.

SECT. 3. The owners of any old or unoccupied meeting  
2 house may sell the same, if three fourths of the owners thereof  
3 shall so decide at any legal meeting of said owners held for that  
4 purpose ; and the proceeds of any such sale, after deducting all  
5 necessary expenses shall be divided among the several proprie-  
6 tors, according to their respective interests in the same.

SECT. 4. The owners of any meeting house, or house or  
2 building erected for public worship, together with the owners  
3 of the pews therein—be and hereby are created bodies corpo-  
4 rate, in the manner and for the purposes hereinafter provided.

1835, 187, § 1.

SECT. 5. 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 same town where the  
8 building is situate ; one of which notices shall be posted on the  
9 principal outer door of such building. 1835, 187, § 2.

SECT. 6. The owners of the building when assembled may  
2 choose a moderator and clerk who shall perform the duties of  
3 his office, and thereupon said owners shall be and are declared  
4 to be a body corporate and shall be known by such name as  
5 they shall adopt, and may agree on the mode of calling future  
6 meetings. 1835, 187, § 3.

SECT. 7. 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.

1835, 187, § 4.

SECT. 8. When any house of public worship shall be owned  
2 by persons of different religious denominations any one or more  
3 of such owners, being of the minority, may apply to any justice  
4 of the peace and quorum to obtain a division of the time of  
5 occupying the house ; and the justice shall call a meeting of  
6 the owners of the house, by posting up in a public place in or



7 about the house a notice, thirty days at least, before the meet-  
8 ing; which shall state the time and place of meeting.

1838, 327, § 1.

SECT. 9. It shall be the duty of such justice, on request to  
2 notify two other justices to attend the meeting, and the three  
3 justices, all of whom shall be disinterested, and neither of  
4 whom, shall be an inhabitant of the town in which the house is  
5 located, or belong to the denomination of either of the parties  
6 interested, shall constitute a board, before which the several  
7 owners may exhibit the amount they respectively own in the  
8 house, in no case less than ten pews, and the minority wishing  
9 to occupy the house some part of the time, shall have that part  
10 allotted to them as nearly as may be in proportion to the  
11 amount owned in the house by the minority, and the board  
12 shall designate precisely which weeks in each year the minority  
13 shall occupy the house if they see fit so to do, if not the  
14 majority may occupy the house.

1838, 327, § 2.

SECT. 10. 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.

1838, 327, § 3.

SECT. 11. 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.

1838, 327, § 3.

SECT. 12. 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 them-  
8 selves of any of the provisions in this chapter.

1838, 327, § 4.

CHAPTER 20.

OF MINISTERIAL AND SCHOOL LANDS, AND FUNDS ARISING THEREFROM.

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- Sect.* 1. Fee in ministerial lands, how vested.  
 2. Fee in school lands, how vested.  
 3. Selectmen, clerk and treasurer to be trustees.  
 4. They shall choose officers.  
 5. Power of such trustees.  
 6. Shall place fund on interest.  
 7. When a minister is settled, the minister lot shall pass to him.  
 8. Trustees may take and hold estate for ministry.  
 9. Also for use of schools.  
 10. Annual income of ministerial property—how apportioned.  
 11. Monies not demanded to go to the funds.  
 12. Annual income of school property how apportioned.  
 13. Trustees to account annually to town, exhibit statement, &c.  
 14. Such lands belonging to a parish, assessors, clerk and treasurer to be trustees, their powers and duties.  
 15. Mode of calling meetings.
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SECT. 1. Where lands have been granted or reserved for the use of the ministry or first settled minister, in any town in this State, and where the fee in such lands has not vested in some particular parish within such town or in some individual, the fee and estate in such lands shall be and hereby is declared to be vested in the inhabitants of such town, and not in any particular parish therein, for the use and support of the gospel ministry in such town. 1824, 254, § 1.

SECT. 2. Where lands have been granted or reserved for the use of schools in any town within this State, the fee in which lands has not already vested, the same shall be and hereby is declared to be vested in the inhabitants of such town for the support and use of schools therein forever. 1824, 254, § 1.

SECT. 3. The selectmen, town clerk and treasurer, for the time being, of each town in the State, wherein no other trustees for the same purpose are already lawfully appointed, shall be a body corporate and trustees of the ministerial and school funds in such town forever, with the usual powers granted to similar corporations. 1824, 254, § 2.

SECT. 4. The trustees shall elect annually, a president clerk and treasurer; and the treasurer shall give bond with sufficient sureties, in the opinion of the trustees for the faithful discharge of his duty, and the clerk shall be duly sworn. 1824, 254, § 2.

SECT. 5. Such trustees shall have power to sell and convey all the ministerial and school lands belonging to their respective towns, and lying within the same, except such parts as may have already vested as mentioned in the first section, and any deed of such land, so sold, duly executed by the treasurer, by order of the trustees, shall pass the estate. 1824, 254, § 3.

SECT. 6. 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 invested in bank stock or public  
5 securities. 1824, 254, § 3.

SECT. 7. But when any such town shall settle a minister, all  
2 lands granted or reserved for the first settled minister or the  
3 proceeds of the sale thereof as aforesaid shall pass to or be paid  
4 over to such first settled minister of such town, under the terms  
5 and conditions of the original grant. 1824, 254, § 3.

SECT. 8. 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. 1824, 254, § 3.

SECT. 9. And they may so take and hold any such property  
2 for the use of schools in their several towns, the annual income  
3 of which shall not exceed the sums which their respective towns,  
4 are by law bound to raise for the use of schools therein.

1824, 254, § 3.

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

1832, 39, § 2. 1824, 254, § 4.

SECT. 11. And such income shall be expended in the same  
2 manner that other monies, raised for the support of schools, are  
3 by law required to be expended, but nothing in this chapter  
4 shall be construed to exempt any town from raising for the use  
5 of 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.

1832, 39, § 3.

SECT. 12. The trustees of any ministerial fund, in this State  
2 who were incorporated by the Legislature of Massachusetts may,  
3 by consent of the town for whose use the fund was established,  
4 transfer the same to the selectmen, clerk and treasurer of such  
5 town, and those officers are hereby made *ex officio* trustees of  
6 the same, and the income thereof shall be annually applied by  
7 them, to the support of primary schools in such town, to be  
8 expended in the same manner and subject to the same provisions  
9 as are contained in the preceding section. 1832, 39, § 1.

SECT. 13. At each annual meeting of the several towns, the  
2 respective trustees shall exhibit an account of their proceedings  
3 and statement of the funds, receipts and expenditures and of  
4 the application thereof to the uses required. 1832, 39, § 5.

SECT. 14. 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 funds 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; and shall at  
 9 each annual meeting for choice of parish officers, exhibit an  
 10 account of their proceedings and statement of funds, receipts  
 11 and expenditures. 1832, 39, § 6.

SECT. 15. The first meeting of the trustees in any year may  
 2 be called by a personal notice given by any one of said trus-  
 3 tees, to all the other trustees, of the time and place of meeting,  
 4 seven days at least, prior to said meeting.

## CHAPTER 21.

### OF THE PREVENTION OF CONTAGIOUS SICKNESS.

- Sect.* 1. Precautions against infected persons.  
 2. Also against persons coming from infected places.  
 3. How such persons to be disposed of.  
 4. Penalty for returning after removal.  
 5. Precautions authorized in towns bordering on other States, &c.  
 6. Compulsory process for removal or for the separate accommodation of  
    infected persons.  
 7. Also for securing infected articles.  
 8. And for removing them.  
 9. Power of officers executing warrants for said purposes—penalty for  
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 10. How the expenses shall be paid.  
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 12. Adjournment of courts on account of danger from infection.  
 13. Infected prisoners to be temporarily removed from jails, &c.  
 14. Order for removal to be returned to the court, &c.—such removal not  
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 15. Health committee, &c. to remove certain nuisances, &c. in public places.  
 16. Also to require removal of such from private property by the owners or  
    occupiers; proceedings in case of refusal.  
 17. Masters, &c. of vessels in certain cases to submit to examination on  
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 18. Vessels in certain cases to lie off at anchor at a distance from towns.  
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 20. Selectmen may establish quarantine of vessels.  
 21. Punishment for breach of quarantine regulations.  
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 23. Punishment for violation or evasion by masters, &c. after such notice.  
 24. Selectmen to furnish signals, &c.  
 25. Restrictions of persons going on board vessels at quarantine.  
 26. Health committee, &c. in certain cases to act instead of selectmen.  
 27. How expenses of quarantine are to be paid.

Sect. 28. Hospitals may be established in towns.

29. Not within one hundred rods of any dwelling-house, without consent of selectmen.

30. Penalty for inoculating with the small pox.

31. Physicians and others liable to the hospital regulations.

32. Hospital to be specially provided, whenever any disease dangerous to the public health, breaks out. Regulations thereof.

33. Signals and other precautions to be used by selectmen to prevent the spread of disease in such cases.

34. Penalty for violation of hospital regulations by physicians and others.

35. Householders and physicians to give notice to selectmen of diseases under their care, dangerous to the public health.

36. Forfeitures to enure to the use of the town. How recoverable.

37. Board of health to be chosen by towns annually, if they see cause; their powers and duties.

38. Provisions of this chapter extended to organized plantations.

39. Vaccination may be at the expense of towns or plantations.

40. Places for the exercise of offensive trades to be assigned by the selectmen or board of health.

41. When such place becomes a nuisance, the district court may revoke such assignment.

42. Punishment for violation of the provisions of the two preceding sections and abatement of nuisance.

43. Special action to aggrieved party in such cases.

44. On conviction the court may order the nuisance to be abated at the expense of the party convicted, &c.

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 sep-  
7 arate house, if it can be done without great danger to his health,  
8 and by providing nurses and other assistance and necessaries,  
9 which shall be at the charge of the person himself, his parent  
10 or master, if able, otherwise at the charge of the town to which  
11 he belongs. 1821, 127, § 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 of  
11 the town. 1821, 127, § 2.

SECT. 3. Any person, who is required to give notice to one of  
2 the selectmen or the clerk of any town, as provided in the pre-  
3 ceding section, may be prohibited by said selectmen from going  
4 to any part of such town, where they may judge it unsafe for the  
5 inhabitants, for him to go. If he shall not choose to comply

6 with such prohibition, it shall be his duty unless disabled by  
 7 sickness, forthwith to depart from the State in such manner and  
 8 by such road, as the said selectmen shall direct; and in case of  
 9 neglect or refusal any justice of the peace in the county, on  
 10 complaint of either of such selectmen, may by his warrant  
 11 to a proper officer or other person named in said warrant, cause  
 12 such person to be removed out of the State. 1821, 127, § 2.

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.

SECT. 5. The selectmen of any town near to, or bordering  
 2 upon either of the adjoining States or provinces, may appoint  
 3 by writing under their hands, suitable persons to attend at any  
 4 places by which travellers may pass into such town from infected  
 5 places in such States, or provinces; and the persons, so appointed,  
 6 may examine such passengers, as they may suspect of bringing  
 7 with them any infection, which may be dangerous to the public  
 8 health, and, if need be, may restrain them from travelling, until  
 9 licensed thereto, by a justice of the peace within such county or  
 10 one of the aforesaid selectmen;—and any passenger, coming  
 11 from such infected place, who shall, without license, as aforesaid,  
 12 travel within this State, unless it be to return by the most direct  
 13 way to the State or province whence he came, after he shall  
 14 have been cautioned to depart by the persons appointed as afore-  
 15 said, shall forfeit a sum not exceeding one hundred dollars.

1821, 127, § 3.

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  
 6 impress and take up convenient houses, lodging, nurses, attend-  
 7 ants and other necessaries for the accommodation, safety and  
 8 relief of the sick. 1821, 127, § 4.

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 or  
 4 goods of any kind found within such town, are infected with any  
 5 malignant contagious distemper, such justice of the peace shall,  
 6 by warrant directed to the sheriff or his deputy, or to any con-  
 7 stable, require him to impress so many men, as said justice shall  
 8 judge necessary to secure such infected articles, and to post said  
 9 men, as a guard over the house or place, where such articles  
 10 shall be lodged; which guard shall take effectual care to prevent  
 11 any persons removing or coming near to such articles, until due  
 12 inquiry be made into the circumstances thereof.

1821, 127, § 5

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 con-  
4 venient 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. 1821, 127, § 5.

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

1821, 127, § 5.

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. 1821, 127, § 5.

SECT. 11. Whenever the sheriff, or other officer, shall impress  
2 or take up any houses, stores, lodging, or other necessities, 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. M. R. S. 21, § 24.

SECT. 12. Whenever any malignant infectious distemper shall  
2 prevail in any of the towns, wherein the supreme judicial court,  
3 district court, or court of county commissioners are to be holden,  
4 at the time prescribed by law or by their own adjournment; the  
5 justices of the said courts respectively are hereby empowered  
6 to adjourn and hold said courts in any town in said county by  
7 proclamation to be made in such public manner, as they shall  
8 judge best, as near to their usual place of meeting as in their  
9 opinion, safety will permit. 1821, 127, § 7.

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 per-  
4 son may be, by medical advice, shall consider dangerous to the  
5 safety and health of the other prisoners, or of the inhabitants of  
6 the town, the said selectmen shall, by their order in writing,  
7 direct the removal of such person to some place of safety, there  
8 to be securely kept and provided for until their further order;  
9 and if such person shall recover from such disease, he shall be  
10 returned to the said prison or other place of confinement.

M. R. S. 21, § 25.

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  
8 an escape. And any town in this State may at its annual meet-  
9 ing legally warned for that purpose choose a health committee  
10 to consist of not less than three, nor more than nine persons or  
11 they may choose one person to be a health officer.

M. R. S. 21, § 26. 1821, 127, § 8.

SECT. 15. It shall be the duty of such health committee or  
2 health officer, at the expense of their town, to remove all filth  
3 of any kind whatever, which shall be found in any street, lane,  
4 wharf, dock, or other place within the limits of their town, which  
5 in their judgment may endanger the lives or health of any of  
6 the inhabitants thereof; and also to require the owner or occu-  
7 pier to remove or discontinue any drain or other source of filth,  
8 the removal of which they may deem necessary.

1821, 127, § 8.

SECT. 16. Whenever any source of filth, or other cause of  
2 sickness, shall be found on private property, the owner or occu-  
3 pier thereof shall within twenty-four hours after notice from the  
4 said committee or health officer, at his own expense, proceed  
5 to remove or discontinue the same; and if such owner or  
6 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 per-  
13 mitted the same.

1821, 127, § 8.

SECT. 17. 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 answer  
6 on oath to such questions as may be asked him, relating to such  
7 infection or distemper, by the selectmen of the town, to which  
8 such vessel may come, which oath either of the selectmen may  
9 administer, such master, seamen or passenger so refusing, shall  
10 forfeit a sum not exceeding two hundred dollars or be impris-  
11 oned for a term not exceeding six months; the prosecution for  
12 which offence shall be by indictment.

1821, 127, § 6.

SECT. 18. Whenever any vessel shall arrive at any port within  
2 this State, having on board any person infected with any malig-  
3 nant disease, the master, commander or pilot thereof shall bring  
4 such vessel to an anchor at some convenient place below the  
5 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 shall be suffered to be brought on shore,



9 until the selectmen of the town shall give their written permit  
10 for the same. 1821, 127, § 9.

SECT. 19. For the wilful 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 offence.

SECT. 20. 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. 1821, 127, § 10.

SECT. 21. Any owner, master or supercargo, officer, seaman,  
2 passenger, consignee, or other person, who shall neglect or  
3 refuse to obey the orders and regulations of the said selectmen,  
4 respecting the said quarantine, shall forfeit a sum not exceeding  
5 five hundred dollars, or be imprisoned for a term not exceeding  
6 six months, or both, at the discretion of the court, having cog-  
7 nizance of the offence, on prosecution by indictment. 1821, 127, § 10.

SECT. 22. Whenever the selectmen of any seaport town, shall  
2 think it necessary to order all vessels, which shall arrive at such  
3 town from any particular port or ports, to perform quarantine,  
4 they shall give notice thereof to the pilots of their own port,  
5 and it shall be the duty of such pilots to make known the said  
6 order to the masters of all vessels which they shall board. Every  
7 such pilot, who shall neglect to make known the said order as  
8 aforesaid or who shall contrary thereto pilot any vessel up said  
9 seaport town, shall forfeit a sum not exceeding one hundred  
10 dollars. 1821, 127, § 12.

SECT. 23. When any master or commander of any vessel  
2 shall come up to any seaport town aforesaid, with his said vessel,  
3 after notice given to him by any person whatever, that a quaran-  
4 tine has been directed by the said selectmen for all vessels  
5 coming from the port or place from which said vessel sailed; or  
6 shall by false declarations or otherwise fraudulently attempt to  
7 elude the directions of the said selectmen; or shall land or  
8 suffer to be landed from his vessel, any person, or apparel,  
9 bedding, goods or merchandize, without permission of the said  
10 selectmen, he shall incur the like penalty or suffer the like  
11 imprisonment, or both, as is provided in the twenty-first section  
12 of this chapter, on like prosecution. 1821, 127, § 11.

SECT. 24. The selectmen of every seaport town, requiring  
2 vessels to perform quarantine, shall provide at the expense of  
3 such town a suitable number of red flags, of at least three yards  
4 in length, and the master of every vessel, ordered to perform  
5 quarantine, as aforesaid, shall cause one of said flags to be con-  
6 tinually kept during the term of his quarantine, at the head of  
7 the mainmast of his vessel; and no person shall go on board

8 such vessel, during said term, unless by permission of said  
9 selectmen. 1821, 127, § 13.

SECT. 25. 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. 1821, 127, § 13.

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

SECT. 27. 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 respec-  
4 tively. 1821, 127, § 15.

SECT. 28. The inhabitants of any town, may establish within  
2 the same town one or more hospitals for the reception of per-  
3 sons having the small pox or other disease, which may be dan-  
4 gerous to the public health; or the selectmen of any town may  
5 license any building in said town as a hospital, at their discre-  
6 tion; and such hospital or licensed building, shall be under the  
7 control of the selectmen. 1821, 127, § 16.

SECT. 29. No such hospital shall be established, or licensed,  
2 within one hundred rods of any inhabited dwelling house, situ-  
3 ated in any adjoining town without the consent of the selectmen  
4 of such adjoining town. 1821, 127, § 16.

SECT. 30. 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 offence forfeit a sum not exceeding one hundred dol-  
5 lars. 1821, 127, § 16.

SECT. 31. 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.

SECT. 32. 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  
10 such hospitals or places of reception, unless the condition of  
11 the sick person be such as not to admit of removal without dan-  
12 ger of life; in which case the house or place, where the sick  
13 shall remain, shall be considered as an hospital to 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. 1821, 127, § 18.

SECT. 33. Whenever any disease, dangerous to the public  
2 health, is found to exist in any town, the selectmen shall use all  
3 possible care to prevent the spreading of the infection, and to  
4 give public notice of infected places to travellers 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.

1821, 127, § 19.

SECT. 34. 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 offence, forfeit a sum, not  
7 less than ten dollars nor more than one hundred dollars.

1821, 127, § 19.

SECT. 35. Whenever any householder or any physician shall  
2 know that any person under his care is taken sick of any disease,  
3 dangerous to the public health, he shall immediately give notice  
4 thereof to the selectmen of the town, in which the diseased  
5 person may be; and if he shall neglect to give such notice,  
6 he shall forfeit a sum not less than ten, nor more than thirty  
7 dollars.

1821, 127, § 20.

SECT. 36. 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 offence shall have been  
4 committed, and be recovered in manner, as provided in chapter  
5 one hundred and thirty-two.

SECT. 37. 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. M. R. S. 21, § 1.

SECT. 38. The provisions of this chapter in relation to towns,  
2 are also extended to organized plantations, and the assessors of  
3 such plantation within the same, shall do the duties and have  
4 the same powers as the selectmen of the towns and be subject

5 to the same restrictions and penalties, and the same penalties  
6 shall attach to persons who may disobey their authority.

SECT. 39. 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 to  
6 raise all necessary sums to defray the expense of such inocula-  
7 tion, or such part thereof, as they may think proper.

1821, 126, § 2.

SECT. 40. The board of health in any town, or the selectmen  
2 thereof, where no board of health exists, when they shall judge  
3 it necessary, shall from time to time assign certain places for  
4 the exercise of any trade, or employment, offensive to the  
5 inhabitants, or dangerous to the public health, and they shall  
6 forbid the exercise of either of them in places not so assigned.  
7 All such assignments shall be entered in the records of the  
8 town, and may be revoked at pleasure by said board of health  
9 or selectmen.

1821, 24, § 1.

SECT. 41. When any place so assigned or building therein,  
2 shall become a nuisance, by reason of offensive smells or exha-  
3 lations proceeding from the same, or shall become otherwise  
4 hurtful or dangerous to the neighborhood or travellers, and the  
5 same shall be made to appear on a trial before the district court  
6 for the county, upon a complaint from any person, the court may  
7 on due notice revoke such assignment and prohibit the further  
8 use of such place or building for the exercise of either of the  
9 aforesaid trades or employments, and may cause such nuisances  
10 to be prevented or removed.

1821, 24, § 3.

SECT. 42. If any person shall exercise any such trade or  
2 employment, contrary to the provisions of the two sections last  
3 preceding, he shall be liable to be prosecuted, and the nuisance  
4 shall be abated as is provided in chapter two hundred and sixty-  
5 four.

SECT. 43. Any person injured either in his comfort or the  
2 enjoyment of his estate, by any such nuisance, may have an  
3 action on the case for the damages sustained thereby.

1821, 24, § 4.

SECT. 44. When any person shall be convicted, on an indict-  
2 ment for a common nuisance, that may be injurious to the public  
3 health, the court may in their discretion, order it to be removed  
4 or destroyed, at the expense of the person convicted, under the  
5 direction of the selectmen, or board of health of the town,  
6 where the nuisance is found.

M. R. S. 21, § 12.

NOTA BENA. The five foregoing sections, may be retained or not, as may be  
deemed proper; inasmuch as sections of a similar import are found in the crimi-  
nal code. Both do not seem to be necessary,

## NOTES.

SECT. 2, 3, 4. The provisions of the Stat. 1821, ch. 127, § 2, seemed to the commissioners to be more severe than the Legislature would now deem necessary; they have therefore mitigated some of its rigors and probably with as much safety to the public.

SECT. 13, 14. These sections are intended to legalize a proceeding which necessity may in some cases require, and the risk and responsibility of which would otherwise rest on the officers concerned.

SECT. 37. This section extends the power which our cities have of electing a board of health, with the united powers of the selectmen and health committee for the preservation of the public health, to such towns as may prefer to have such a board. It may prove a convenient power in some of our larger towns. If the section is deemed unnecessary it may be struck out without any interference with the rest of the chapter, excepting a slight alteration in section 39.

## CHAPTER 22.

## OF THE PRACTICE OF PHYSIC AND SURGERY.

- Sect. 1. None to recover compensation for services, until they obtain a certificate of good moral character from the selectmen of their town.  
2. Certain description of persons previously authorized, excepted.

SECT. 1. No person, excepting as provided in the following section, shall be entitled to recover at law any compensation for medical or surgical services, by him alleged to have been performed, unless previously to such services, he have obtained from the selectmen of the town where he resided, or shall reside at the time of the performance of such services, a certificate, that it has been satisfactorily proved to them, that such person is of good moral character. 1838, 353, § 2.

SECT. 2. The restriction in the foregoing section, shall not apply to any physician or surgeon, who had commenced practice previously to the sixteenth day of February in the year eighteen hundred and thirty-one; nor to any physician or surgeon who since that time and previously to the twenty-second day of April eighteen hundred and thirty-eight had received a medical degree at some public institution within the United States, where such degrees are usually conferred, or had been licensed by the censors of the Maine medical society or approbated by a certificate from the faculty of the Maine medical school.

1838, 353, § 2. 1831, 489, § 1.

NOTE.

SECT. 2. This section is added for the purpose of defining the description, of medical practitioners who by the act of 1838, c. 353, § 5, 2, are excepted from the number of those required to get certificates, from the selectmen of their town, under the following clause; "other than those who are now by law allowed to collect their dues for medical services."

CHAPTER 23.

OF BURYING GROUNDS.

- Sect. 1. Towns may raise money, to buy burying ground.  
 2. Individuals may be incorporated and purchase such grounds.  
 3. When assembled may choose officers.  
 4. Shall fence such grounds in one year.  
 5. Each town shall keep ancient burying grounds fenced—and penalty for neglect.  
 6. Penalty for neglect of duty by selectmen, assessors, &c.  
 7. Burying grounds to be kept fenced—unalienable and indivisible, unless, &c.

SECT. 1. All towns and plantations may raise and cause to be  
 2 assessed money necessary for purchasing land for a burying  
 3 ground and suitably fencing it for such purpose. 1834. 130.

SECT. 2. Persons twenty-one years of age and upwards desirous  
 2 of incorporating themselves as a body politic for the purpose of  
 3 purchasing land for a burying ground may apply to a justice of  
 4 the peace of the same county who shall issue his warrant to one  
 5 of the applicants, directing him to notify them personally to  
 6 appear at the time and place designated in such warrant, which  
 7 notice shall be given seven days, at least before the day  
 8 appointed. 1829, 420, § 1.

SECT. 3. The persons so assembled may choose a clerk and  
 2 such other officers as they may think proper, and shall thereupon  
 3 be and are declared to be a corporation, and shall be known by  
 4 such name as they shall then assume, and may adopt all neces-  
 5 sary legal regulations, which may be deemed proper. 1829, 420, § 1.

SECT. 4. Every such corporation shall, within one year after  
 2 its organization, make a good substantial and durable fence  
 3 around the burying ground, and keep the same constantly in  
 4 repair, on penalty of one hundred dollars, to be recovered on  
 5 indictment; which sum shall be laid out under the direction of  
 6 the selectmen in keeping the fences in repair. 1829, 420, § 2.

SECT. 5. Each town, parish or religious society to which any  
 2 ancient or public burying yard belongs, shall keep a substantial

3 and durable fence around it, in good repair; and by neglecting  
4 so to do, shall forfeit one hundred dollars to be recovered and  
5 appropriated and applied in the same manner, as is prescribed  
6 in the preceding section. 1828, 405, § 1.

SECT. 6. If the selectmen of any town or the treasurer or  
2 committee of any parish or religious society shall neglect to  
3 apply the said fines when recovered under their respective  
4 authority, 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. 1828, 405, § 2.

SECT. 7. Any persons who 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 attachment  
4 and execution, and unalienable and indivisible by the owners;  
5 and shall be kept fenced and occupied as a burying ground,  
6 unless all the owners consent to an alienation or division there-  
7 of—and such proprietors shall cause a written description thereof,  
8 under their hands, attested by two disinterested witnesses, to be  
9 recorded in the registry of deeds, in the county or district where  
10 such land lies. 1839.

## CHAPTER 24.

### OF DRAINS AND COMMON SEWERS.

Sect. 1. Penalty for laying drains without consent of selectmen.

2. How they shall be made and repaired.

3. When a person makes a drain and others join it, they shall pay part of the expense.

4. How the expense shall be apportioned.

5. Selectmen shall notify proportions.

6. If person opens a drain, shall notify all concerned.

7. Nothing in this chapter to affect private contracts.

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 selectmen in  
4 writing—he shall forfeit and pay for each offence four dollars to  
5 the use of the town. 1821, 121, § 1.

SECT. 2. All drains and common sewers hereafter made or  
2 repaired in any highway or street, shall be done substantially  
3 with brick or stone or other materials as the selectmen shall  
4 permit, and in the manner they direct. 1821, 121, § 2.

SECT. 3. When any person, by consent and direction as afore-  
2 said, shall at his own expense, lay any common drain or sewer  
3 for the benefit of himself and others who may see fit to join  
4 therein, every person who shall enter his particular drain into it

5 or by any other means receive any benefit from it, shall pay the  
6 owner thereof a proportion of the expense of making it, to be  
7 ascertained and determined by the selectmen and by them cer-  
8 tified saving a right of appeal to the county commissioners.

1821, 121, § 2.

SECT. 4. The expense in opening a drain and removing  
2 obstructions shall be paid by all who are benefitted thereby;  
3 and the same shall be apportioned and determined by the select-  
4 men, saving an appeal as aforesaid.

1821, 121, § 3.

SECT. 5. And such selectmen shall notify each person of the  
2 amount he shall be held to pay, and to whom: and if such sum  
3 shall not be paid by him in ten days, he shall be held to pay  
4 double the sum certified to him, with costs of suit—Provided  
5 that

1821, 121, § 3.

SECT. 6. The person having occasion to open any drain shall  
2 notify all persons interested therein seven days before he shall  
3 begin, by advertising in the manner the selectmen shall direct;  
4 and if the objections to proceeding, if any are made, shall be  
5 judged reasonable by the selectmen, then the objector shall not  
6 be held to pay any part of the expense: but if no objections be  
7 made within three days, or, when made are not judged sufficient,  
8 they shall give a written permission to proceed and open the  
9 drain and clean and repair it.

1821, 121, § 3.

SECT. 7. Nothing in this chapter shall affect any covenants or  
2 agreements already made, or that hereafter may be made among  
3 the owners of such drains and common sewers, as to opening,  
4 cleaning and repairing the same.

1821, 121, § 3.

## CHAPTER 25.

### OF WAYS.

- Sect.* 1. County commissioners, jurisdiction on the subject of highways.  
2. Notice of petition to the towns interested, and view of premises.  
3. Hearing of the parties and action thereon, return to be made and  
recorded.  
4. Monuments to be erected.  
5. Petition to be continued for two sessions, to receive complaints, &c.  
6. Further continuance, till such complaints are decided.  
7. Damages to be paid by the county and in proportion to the interest of  
the owners.  
8. Parties entitled to a committee or jury. What subjects to be submitted.  
9. Several petitioners may join. Different applications may be submitted  
to the same jury or committee.  
10. No petition to abate by the reason of the death of any petitioner, where  
more than one.  
11. If executors, &c. neglect, on notice, to appear, survivors may proceed.  
12. Warrant for a jury, &c.—directed to a sheriff, &c.  
13. Jurors how to be drawn.  
14. Talismen, in case, &c.



- Sect. 15.** County attorney and other parties to be notified of petitions for increase of damages.
16. Who shall preside at the view and hearing.
  17. Jurors and witnesses to be sworn.
  18. Proceedings of jury and verdict—officer's return.
  19. Final decision—costs to prevailing party.
  20. Fines for taking off wood—payment of damages and opening road.
  21. If damages prove to be too high, the commissioners may decide against the original petition—of costs in that case.
  22. Modification of damages, when highway is discontinued before payment.
  23. Highways extending into two or more counties—notice and other proceedings on petition.
  24. Notices to be served thirty days previous.
  25. Majority of commissioners present to determine, unless, &c.
  26. After decision, commissioners to proceed in their respective counties, as in other cases.
  27. Selectmen to lay out town and private ways.
  28. How they shall give notice.
  29. Their proceedings to be confirmed by the town.
  30. Towns may discontinue town and private ways.
  31. By whom damages to be paid, and how assessed for such ways.
  32. Commissioners in certain cases to lay out and alter, when selectmen unreasonably refuse.
  33. May discontinue, if towns unreasonably refuse.
  34. May approve the doings of selectmen, if towns refuse, &c.
  35. Towns may not counteract the decision of the commissioners.
  36. Applications to commissioners for damages for town or private way, when to be made, provided, &c.
  37. Further time allowed, if due notice had not been given, &c.
  38. Petitioners may join or apply severally.
  39. Action for damages, when ascertained.
  40. When towns neglect to open, &c. commissioners may appoint a committee to do so, with further proceedings.
  41. When any way is discontinued by commissioners, they shall appoint a time therefor.
  42. Every way not opened in six years after, &c. deemed to be discontinued.
  43. Organized plantations and their officers, &c. to have the same rights and obligations as towns.
  44. Of ways in townships, &c.—not organized.
  45. How notice shall be given to proprietors, &c.
  46. After notice, commissioners may proceed, &c.—assessment.
  47. Discretionary authority to assess in certain respects according to advantages conferred.
  48. Same subject.
  49. Repairs of ways in such townships, &c.
  50. Assessments thereon, to be published by commissioners.
  51. Agents to expend the same to be appointed.
  52. Proprietors of such townships, &c. may be proportionably assessed.
  53. County treasurer to advertise, &c. previous to sale of taxes, &c.
  54. Proceedings at the sale.
  55. How the money shall be expended.
  56. Proprietors may meet and raise money for such purpose.
  57. Delinquent towns may be prosecuted by indictment on information.
  58. Ways lying between two towns, how to be supported; proportions may be assigned by a transverse line.
  59. Commissioners may in case, &c. assign due metes and bounds first giving notice, &c.
  60. Commissioners may locate roads between two towns and assign proportions at the same time.
  61. Same subject.

- Sect.* 62. Towns to choose surveyors of highways.
63. Selectmen to assign limits to surveyors, annually.
64. When selectmen are chosen surveyors, they may delegate their power.
65. Money for ways to be expended in labor and materials may be raised, assessed and collected by towns, &c.
66. Two thirds to be expended before July first each year.
67. Surveyor to give notice forty-eight hours—amount may be paid in labor and materials, or cash, at the election of the person liable.
68. Ways blocked with snow, to be opened by surveyor. Sudden injuries to be repaired.
69. Triangular sleds, &c.—to be furnished and used.
70. Surveyors to report a list of delinquents; deficiency may be afterwards assessed.
71. Surveyors to remove obstacles.
72. May dig for materials in land not enclosed; compensation therefor to be paid by the town.
73. Water courses not to incommode individuals.
74. If a sufficient amount be not raised, &c. what proceedings may be had.
75. Towns may raise money for ways to be assessed like other taxes.
76. Abatements on account of wide felloes to wheels.
77. Towns may authorize ways to be made or repaired by contract.
78. Surveyors may be authorized in case of delinquency in furnishing labor, &c. to compel payment in money like other collectors.
79. Surplus to be paid to town treasurer by surveyor.
80. Forfeiture for neglect.
81. Surveyors to account to selectmen, &c. under penalty.
82. Road commissioners may be chosen. To be sworn, &c.
83. Their powers, duties and compensation.
84. In what manner to proceed.
85. What notice to be given to non-residents.
86. Authority to enforce payment of delinquent assessments and proceedings thereon.
87. Commissioners may be authorized to commute assessments payable in labor, &c.
88. Chairman of road commissioners and his duties.
89. Damages through defect, &c. how recoverable, forfeiture if death ensue.
90. Surveyor to refund, &c. to towns, in case of fines by indictment or information, if from his neglect.
91. Only one indictment, &c. against a town at a single term for defect, &c. but various counts may be inserted. Restriction as to costs.
92. How fines shall be appropriated. Agent to receive, &c. and render account, &c.
93. Penalty for agent's neglect.
94. Assessment and collection of fines, &c.
95. In case of neglect of payment, clerk to issue a warrant.
96. If assessors neglect to assess, and if repairs be not made to the acceptance of agent, court may issue warrant of distress.
97. Any person may remove gates, &c. across a way, unless, &c.
98. Surveyor's duty in removal of obstructions of logs, lumber, &c.
99. Expenses of abating nuisances, how to be refunded.
100. When buildings or fences to be deemed boundaries of highways.
101. Towns estopped to deny in certain cases, the location of a highway, &c.
102. Guide posts.
103. Selectmen to determine upon places, &c. penalty for neglect.
104. Form and inscriptions thereon. Towns may agree on a substitute.
105. Fines for neglect of towns.
106. Plantations liable to same obligations, &c.
107. Proprietors of private ways, &c. may call a meeting, &c.
108. May choose officers, provide for future meetings, and raise sums to be assessed in labor, &c.

- Sect. 109. Proprietors liability in case of neglect.  
 110. Forfeiture, if surveyor elected refuse to serve.  
 111. May make and repair ways, &c. by contract, and raise money and assess like towns.  
 112. Surveyor may collect the same.  
 113. Penalty for his neglect.  
 114. How certain forfeitures may be recovered and appropriated. Proprietors to be described in their corporate capacity in such suits.  
 115. Occupants of state lands liable for road taxes. Sale of their interest in the same.  
 116. Purchaser entitled to a deed from the State, on conditions.

SECT. 1. When a new highway from town to town shall be  
 2 wanting, or when any highway can with greater public conven-  
 3 ience be altered or discontinued, application therefor shall be  
 4 made by petition in writing to the county commissioners, at one  
 5 of their regular sessions within and for the county, in which  
 6 such new highway or alteration or discontinuance shall be  
 7 wanting. 1821, 118, § 1. 1832, 42, § 1.

SECT. 2. Said commissioners, when satisfied that the petition-  
 2 ers are responsible and that enquiry into the merits of their  
 3 application is expedient, shall view the premises, first giving to  
 4 the parties interested thirty days notice of the time and place of  
 5 their meeting, by causing copies of such petition with their  
 6 order thereon to be posted up in three public places in each  
 7 town, in which any part of such highway may lay, and to be  
 8 served upon the clerks of such towns, and to be published in  
 9 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. 1832, 42, § 1.

SECT. 3. If after such view and hearing of the parties and  
 2 their testimony, which hearing shall be at the time and place of  
 3 such view, or at some convenient place in the vicinity after such  
 4 view, they shall judge the same to be of common convenience  
 5 and necessity, the said commissioners shall have power to lay  
 6 out, alter or discontinue such highway or any part thereof, and  
 7 shall estimate the damages, if any, which any person may sustain  
 8 by reason thereof; and shall make a correct return of their  
 9 doings under their hands with an accurate plan or description of  
 10 said highway so laid out, altered or discontinued, to the regular  
 11 session of said county commissioners' court to be held next after  
 12 such proceedings shall have been had and finished, and shall  
 13 cause the same to be duly recorded. 1832, 42, § 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; stone monuments being  
 4 preferred when practicable. 1833, 79, § 4.

SECT. 5. Whenever the county commissioners shall make and  
 2 record their return, as provided in section third 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; and  
6 all persons aggrieved by their decision in estimating damages  
7 shall present their petitions for redress at the first or said second  
8 next regular session; and if no such petition be then presented,  
9 the proceedings upon the original petition shall be closed and so  
10 entered of record, and all claims for damages, not before allowed,  
11 shall be forever barred. 1835, 168, § 1.

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 proceed-  
6 ings on said original petition, shall be completed, and not before.  
1835, \*168, § 1.

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 them  
8 severally in proportion to their respective interests in the prop-  
9 erty affected. Vol. 3, 227, § 1. 6 Mass. rep. 251.

SECT. 8. 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 agree  
5 with the parties adversely interested to have the same determined  
6 by a committee to be appointed under the direction of the com-  
7 missioners. In case of controversy, respecting the interest of  
8 any party, claiming damages, as aforesaid, the said jury or com-  
9 mittee shall have power to consider and determine such question  
10 of interest, so far only, as respects the damages of such com-  
11 plainant. Any town or other corporation, aggrieved by the  
12 estimate of the commissioners, shall be entitled to a similar  
13 remedy by a jury or committee, as is provided for individuals  
14 claiming damages. 1821, 118, § 1, 2, 6.

SECT. 9. If two or more persons shall apply at the same time  
2 for joint or several damages, they may join in the same petition  
3 to the commissioners; and if several applications shall be pend-  
4 ing at the same time before the commissioners for a jury or  
5 committee relative to the same highway, the said commissioners  
6 may at their discretion cause all such applications to be consid-  
7 ered and determined by the same jury, or committee; and the  
8 costs shall be taxed, either jointly or severally, as the commis-  
9 sioners shall determine to be equitable. The commissioners  
10 shall also have like power in case of adverse petitions relative  
11 to the same highway. 1821, 118, § 5, 7.

SECT. 10. No such petition shall abate by reason of the  
2 death of any petitioner; but the executors or administrators, or

3 the heirs or devisees, if they shall be the persons interested,  
4 may appear and prosecute such petition, or present a new one  
5 in the same manner and with the same effect, as the original  
6 party might have done, if living. M. R. S. 24, § 16.

SECT. 11. 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.

M. R. S. 24, § 17.

SECT. 12. The warrant for a jury shall be directed to the  
2 sheriff of the county or his deputy, who is disinterested or to a  
3 coroner, as the commissioners shall order, requiring him to sum-  
4 mon a jury of twelve men to hear and determine the matter of  
5 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. 1821, 118, § 1. M. R. S. 24, § 18.

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

1821, 118, § 1. M. R. S. 24, § 19.

SECT. 14. 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.

1821, 118, § 1. M. R. S. 24, § 21.

SECT. 15. In all cases of petitions for increase of damages,  
2 as aforesaid, on account of any highway, liable to be assessed  
3 on the county, the attorney for the State in the county where  
4 such highway is situated, shall be duly notified of such applica-  
5 tion, and shall be authorized to act in behalf of the county, as  
6 well in agreeing on a committee, as before provided, as in rela-  
7 tion to a jury. It shall be required of the officer, in his warrant  
8 for summoning a jury or of the committee acting by agreement,  
9 to give reasonable notice to said attorney, and it shall be the  
10 duty of such attorney to attend said jury or committee in behalf  
11 of his county; and a reasonable compensation shall be allowed  
12 him for the service by the commissioners, from the treasury of  
13 the county. The warrant shall also specify the other parties  
14 interested, whom said officer shall be required to notify as afore-  
15 said.

Vol. 3, p. 79, ch. 249, § 2, 3.

SECT. 16. 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 sum-  
7 mon jurors for the purpose, and who shall preside at the view  
8 and hearing, if no other person is specially appointed, but he  
9 need not be sworn for the occasion. 1821, 118, § 1.

SECT. 17. 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. M. R. S. 24, § 24.

SECT. 18. The jury shall view the premises, unless all the  
2 parties present otherwise agree. They shall also hear and  
3 examine all such legal evidence, as may be laid before them,  
4 with the observations of the parties or their counsel thereon. All  
5 the jurors shall sign the verdict, which may be agreed upon and  
6 the same shall be enclosed in a sealed wrapper with an endorse-  
7 ment, expressing what it contains, and shall be delivered so  
8 endorsed to the officer having charge of the jury. The verdict  
9 shall be returned at the session of the commissioners next fol-  
10 lowing the order for summoning the jury. The officer shall  
11 make return of his doings with the verdict and specify his own  
12 travel and attendance and that of each juror. If the jury do not  
13 agree on a verdict, the commissioners may issue a new warrant  
14 at their next session, on motion of the original petitioner.

M. R. S. 30. 1821, 118, § 1.

SECT. 19. The verdict of the jury, or the report of the com-  
2 mittee duly returned to the said commissioners, and by them  
3 accepted and recorded, shall be conclusive on the parties, and  
4 the proceedings on the original petition shall be considered  
5 completed. The party prevailing, whether the claimant for  
6 damages, or the county, town or other corporation interested,  
7 shall recover their costs incurred on the occasion against the  
8 other. 1821, 5, § 1, 4. 1835, 267, § 1. 3d Fairfield, p. 210.

SECT. 20. There shall be allowed to owners of lands over  
2 which such road was laid out twelve months from the session of  
3 the commissioners, when the proceedings on said original petition  
4 are closed, to take off their wood, timber or trees; also to the  
5 county or town liable for damages, which may then appear of  
6 record to be due by reason of the laying out, altering or dis-  
7 continuing such road, a term of time not exceeding two years,  
8 to pay the same; and to the county, town or plantation through  
9 which any such road is laid out, a time not exceeding three  
10 years, within which to open and make the same. 1835, 168, § 1.

SECT. 21. If however on inspection of any report or verdict  
2 duly returned relating to any highway intended to be laid out,  
3 altered or discontinued, the county commissioners shall be of  
4 opinion that the same ought not to be done, subject to such high  
5 damages, as are awarded, it shall be their duty instead of accept-

6 ing such report or verdict in full, to enter upon the record of  
7 proceedings under the original petition, a judgment, that the  
8 prayer of the said original petition for such road to be laid out,  
9 altered or discontinued shall not be granted for the reason afore-  
10 said; and no damage shall be allowed, but the county or town  
11 liable therefor shall pay the costs awarded in the same manner  
12 as if the report or verdict had been accepted in regard to dam-  
13 ages. 1835, 168, § 1.

SECT. 22. Whenever any highway shall be discontinued  
2 before the time limited for the payment of damages awarded to  
3 the owners of the land over which such highway passes, the  
4 county commissioners may revoke their order for the payment of  
5 damages, and estimate and order payment of the damages actu-  
6 ally sustained: provided that the parties interested shall have a  
7 right to have their damages, thus proposed to be varied, to be  
8 estimated anew by a jury or committee, as herein provided in  
9 other cases of damages claimed. 1832, 42, § 3.

SECT. 23. 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 newspaper issued by  
14 the printer to the State, and also in one other paper printed in  
15 each county through or in which the proposed road may be  
16 located, altered or discontinued, if any such paper there be and  
17 also to be posted up in three public places in each town directly  
18 interested and served upon the clerk of said town.

SECT. 24. 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. 1832, 42, § 2.

SECT. 25. 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. 1832, 42, § 2.

SECT. 26. 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 road or any part thereof as prayed for, the commissioners shall  
5 proceed to lay out, alter or discontinue that part of such high-

6 way, 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. 1832, 42, § 2. 1836, 198, § 2.

SECT. 27. The selectmen of the several towns may lay out,  
2 alter or widen, town ways for the use of their respective towns  
3 and private ways for the use of one or more of the inhabitants  
4 thereof. 1821, 118, § 9.

SECT. 28. No such town or private way, shall be laid out or  
2 altered, unless seven days at least previous thereto, a written  
3 notice of the intention of the selectmen of the town to lay out  
4 or alter the same, shall be left by them, or their order, at the  
5 usual place of abode of the owners of the land, over which such  
6 way is proposed to be laid out or altered or unless such notice  
7 be delivered to such owner in person or his tenant, or authorized  
8 agent; provided that if the owner shall have no place of abode  
9 in the town, and no tenant or authorized agent therein known  
10 to the selectmen, then such notice shall be posted up in some  
11 public place, in the town, seven days at least before laying out  
12 or altering such way.

M. R. S. 24, § 68. 1 Fairfield, p. 335.

SECT. 29. No such town or private way, shall be established  
2 as laid out or altered, until such laying out or alteration with  
3 the boundaries and admeasurements of the same, shall have  
4 been reported to the town and accepted and allowed, at some  
5 meeting of the inhabitants, regularly warned and notified there-  
6 for, nor unless such laying out or alteration with the boundaries  
7 and admeasurements aforesaid, shall have been filed with the  
8 town clerk, seven days at least before such meeting.

1821, 118, § 9. M. R. S. 24, § 69.

SECT. 30. Any town, at a meeting regularly called for the  
2 purpose, may discontinue any town or private way.

1821, 118, § 9.

SECT. 31. If any damage shall be sustained by any persons  
2 in their property by the laying out, altering or discontinuing of  
3 a town way or private way, they shall receive such compensa-  
4 tion, as the selectmen shall determine; which shall be paid by  
5 the town, if it is of general benefit, otherwise by the persons for  
6 whose use it is laid out, altered or discontinued. In case any  
7 person shall be aggrieved by such determination of the select-  
8 men, he may upon application to the county commissioners have  
9 his damages ascertained by a jury or if he can agree with the  
10 agent for the town, by a committee to be appointed by said  
11 commissioners in like manner as is provided in this chapter, in  
12 respect to the recovery of damages for laying out highways.

1821, 118, § 9. M. R. S. 24, § 68.

SECT. 32. 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 liable for damages, if  
13 no appeal had been made from the selectmen's decision, and the  
14 commissioners may issue a warrant of distress therefor saving  
15 to the parties the like remedy by a committee, or jury if they  
16 are dissatisfied with the determination of the commissioners.

1821, 118, § 10. 1833, 79, § 3.

SECT. 33. 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 parties  
5 interested, order such way to be discontinued; saving to parties  
6 interested the same rights and remedies as are provided in the  
7 thirty-first section of this chapter. 1821, 118, § 10.

SECT. 34. 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 may lead  
5 from land under his possession and improvement to any high-  
6 way or town way, may within one year thereafter apply by peti-  
7 tion in writing to the commissioners. The commissioners may,  
8 unless sufficient cause shall be shewn against such application,  
9 approve and allow of the way, as laid out or altered by the  
10 selectmen, and direct the said laying out or alteration and  
11 acceptance to be recorded by the clerk of such town, which shall  
12 have the like effect, as if accepted by the town and recorded.

1821, 118, § 11.

SECT. 35. When any town way shall have been laid out or  
2 altered by the commissioners, it shall not within five years  
3 thereafter be discontinued or altered by the town. When any  
4 such way shall have been discontinued by the commissioners, the  
5 town shall not within five years thereafter, lay out the same  
6 again. M. R. S. 24, § 74.

SECT. 36. All applications to the county commissioners for an  
2 inquiry of damages for the laying out, altering or discontinuing  
3 any town or private way, shall be made and filed in the office of  
4 the clerk of said commissioners within twelve months next after  
5 the allowance and establishing of said ways, and not afterwards;  
6 provided it shall appear by the report of the selectmen who laid  
7 out or altered said way, that notice was duly given to the parties  
8 as provided in section twenty-eighth of this chapter; or if such  
9 town or private way, was laid out, altered or discontinued by the  
10 county commissioners, that it shall appear by their records that

11 they gave notice to said parties of their meeting in the manner  
12 provided as to highways in section second of this chapter.

Vol. 3, 399, § 5.

SECT. 37. If no such notice thus appears to have been given  
2 by said selectmen or county commissioners, such application  
3 may be made and filed at any time within one year after the  
4 expiration of said twelve months. If however the committee or  
5 jury, afterwards appointed, shall find and determine that the  
6 applicant had had actual information of the laying out, altering  
7 or discontinuance of such town or private way, more than twelve  
8 months prior to his application being made and filed as aforesaid,  
9 such applicant shall be barred of the recovery of any damage  
10 and shall pay all the costs of the inquiry to be taxed by the  
11 commissioners.

Vol. 3, 399, § 5.

SECT. 38. 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.

399, § 6.

SECT. 39. 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 per-  
4 sons entitled to such damages may recover the same, when duly  
5 ascertained as provided in this chapter, together with all costs  
6 taxed in his favor, in an action of debt against the parties liable;  
7 provided that demand for the payment of the same shall have  
8 been made on the treasurer of any county or town, liable to pay  
9 the same, thirty days at least before the suit be brought.

399, § 6.

SECT. 40. If any town liable to open and make or alter any  
2 highway, or town way, or private way, duly accepted and  
3 ordered by the county commissioners, shall neglect so to do  
4 within the time limited by the provisions contained in this chap-  
5 ter, the said commissioners, on application therefor, shall  
6 appoint a committee of three disinterested freeholders in the  
7 same county, other than either of said commissioners, to cause  
8 the said road to be opened and made passable, or altered as the  
9 case may be, by contract or otherwise, and when the same shall  
10 be agreed to be made passable, or altered by contract, the com-  
11 mittee making the contract shall file a certified copy thereof in  
12 the office of the clerk of the commissioners, from which they  
13 received their appointment, and said commissioners shall forth-  
14 with certify to the assessors of the town or plantation interested  
15 the amount they have contracted to give, and the time within  
16 which said contract is to be completed. The commissioners  
17 may examine into the doings of said committee whenever they  
18 shall see cause and may remove all or any of them and substi-  
19 tute others in their stead at discretion; and no account of such  
20 committee shall be allowed, without due notice given to the

21 town interested ; and after the completion of the service of the  
 22 committee and the final allowance of their accounts, the town  
 23 shall be liable to pay all sums expended by the committee with  
 24 the incidental expenses of their agency, and the settling of their  
 25 accounts adjudged by said commissioners to be reasonable,  
 26 and the amounts due on any contracts by them made ; and if  
 25 such town shall neglect to pay the same for thirty days, the  
 28 commissioners shall issue a warrant of distress therefor against  
 29 such town.

1821, 118, § 12. 1836, 198, § 1. 1834, 133, § 6.

SECT. 41. 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.

1833, 79, § 2.

SECT. 42. 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 pro-  
 4 visions of this chapter, shall be taken and deemed to be discon-  
 5 tinued.

Vol. 3, p. 349, 500, § 9.

SECT. 43. The inhabitants of plantations, who are, or may  
 2 be, empowered and required to assess taxes upon themselves  
 3 towards the support of government, or for defraying the charges  
 4 of any county and their officers, shall be vested with like  
 5 powers, be under the like obligations, and liable to like pen-  
 6 alties, so far as such powers, obligations and penalties relate to  
 7 the making, repairing or amending the highways, and for com-  
 8 pensating any individual, who may suffer damage for default of  
 9 the same, as towns and their like officers, have, or are subject  
 10 to ; and like proceedings shall be had by or against such plan-  
 11 tations in the premises or their officers. The assessors of such  
 12 plantations shall be held to perform all the duties required of  
 13 the selectmen of towns relating to highways and invested with  
 14 the same powers.

1821, 118, § 22.

SECT. 44. 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 proprie-  
 13 tors of such tracts of land, townships or plantations last men-  
 14 tioned, shall be held to pay their proportion, according to their  
 15 interest, of all costs and expenses of making and repairing the  
 16 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.

1821, 118, § 23.

SECT. 45. On any application or petition, as mentioned in  
2 the section last preceding, the county commissioners shall cause  
3 notice thereof to be given, by publishing the substance of such  
4 application, with the order of the court thereon, three weeks  
5 successively in one of the newspapers printed in the town of  
6 Augusta, and such other paper as they shall order, that the pro-  
7 prietors of said lands may appear before said commissioners at  
8 such time as they shall appoint by said order, to shew cause  
9 why such highway should not be laid out, altered, discontinued,  
10 or amended and repaired as the case may be.

1821, 118, § 24.

SECT. 46. After notice as aforesaid, and a due hearing of the  
2 parties, the said commissioners if they see cause, may proceed  
3 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  
6 before provided in section forty-four. The proportion of the  
7 expenses payable by said proprietors, shall be assessed and  
8 raised as hereinafter provided.

1821, 118, § 24.

SECT. 47. 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  
9 they may assess upon each division, which they shall consider  
10 to be enhanced in value towards the expense of making and  
11 opening such road, such sum as in their judgment, shall be  
12 proportionate to the value and the benefits likely to result to it,  
13 from the establishment of such road.

1833, 79, § 1.

SECT. 48. 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 such  
4 rates per acre, as they shall judge necessary, for making, or  
5 opening such highway, and defraying the necessary expenses  
6 attending the same.

1821, 118, § 24.

SECT. 49. The county commissioners, in their respective  
2 counties, on or before the fifteenth day of May, in each year  
3 shall assess upon all unincorporated townships or parts of such  
4 townships, a sum of money sufficient to keep the county high-  
5 ways in repair, which are or may be laid out and opened, in  
6 such townships, or parts of townships.

1836, 242, § 1, 2.

SECT. 50. As soon as may be after such assessment shall have  
2 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 that published by the  
7 printer to the State. 1836, 242, § 2.

SECT. 51. Said commissioners may appoint suitable agents  
2 or an agent, not members of their board, to expend such assess-  
3 ment in such proportions on said tracts, and in such manner as  
4 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.

1836, 242, § 1. 198, § 1.

SECT. 52. The proprietors of said tracts, townships or planta-  
2 tions, 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 proper documents  
7 for that purpose as provided in chapter 14, 55th section.

1821, 118, § 24. 1838, 345, § 1.

SECT. 53. The treasurer of the county, where the land so  
2 assessed may lie, shall forthwith cause such tax to be advertised in  
3 manner specified in section fifty of this chapter, requiring the  
4 proprietors jointly and severally, as the case may be, to pay the  
5 amount, or their respective parts thereof, if assessed severally,  
6 within three months from the first publication of said advertise-  
7 ment, and notifying the said proprietors that so much of said  
8 land will be sold by public auction, at a certain time and place  
9 therein mentioned, as will satisfy said assessments and inci-  
10 dental charges, unless previously paid. 1838, 345, § 1.

SECT. 54. The county treasurer for the time being, or an agent  
2 to be appointed by the county commissioners for the purpose,  
3 shall, at the time and place set forth in the advertisement afore-  
4 said, sell so much of said land or portions thereof, on which such  
5 assessments remain unpaid, as may be necessary to pay the taxes  
6 in arrear with incidental charges. Said treasurer or agent, is  
7 also hereby authorized to adjourn the time of the sale of such  
8 land, from time to time not exceeding in all fifteen days—He  
9 shall, on the completion of such sale make good and sufficient  
10 deeds of such lands sold, reserving to the respective proprietors  
11 the right to redeem the same, by payment or tender to the pur-  
12 chasers thereof, their heirs or assigns, within three years from the  
13 time of such sale, the sums for which said lands were sold, with  
14 interest thereon, at the rate of twenty per cent. a year from the  
15 time of sale. 1821, 118, § 24. 1836, 242, § 2, 3.

SECT. 55. 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. 1821, 118, § 24.

SECT. 56. 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. 1821, 118, § 24.

SECT. 57. 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-three of this chapter,  
4 shall be duly opened and kept in repair and amended from time  
5 to time, that the same may be safe and convenient for travellers  
6 and their horses, teams, carts and carriages, and in default  
7 thereof such town or plantation shall on presentment of the  
8 grand jury, or information of the attorney general of the State,  
9 or of the attorney of the State for the county in which such  
10 town or plantation is, and on conviction thereof, be liable to pay  
11 such reasonable fine, as the court having jurisdiction thereof may  
12 order. 1821, 118, § 13, 18. 5 Greenleaf, 254.

SECT. 58. 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 adjoin-  
4 ing towns on each side of such dividing line, the selectmen of  
5 such towns shall have authority for the purpose of making and  
6 maintaining such way, to divide the same crosswise for the pur-  
7 pose 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 towns to  
12 repair and support their respective parts of said highway or  
13 town ways; in the same manner and subject to the same liabil-  
14 ities in all respects as if their part lay wholly in such town.  
15

1835, 155, § 1.

SECT. 59. If the selectmen of said adjacent towns cannot  
2 agree on such division, or if either of said towns shall neglect  
3 or 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 news-  
11 paper printed in said county, or by serving a copy thereof upon

12 the town clerks of said towns thirty days previous to the time  
13 appointed. 1835, 155, § 2.

SECT. 60. 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 pro-  
6 vided in the preceding section. 1835, 155, § 3.

SECT. 61. 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 and  
5 subject to the same liabilities, as in case of county or town ways,  
6 laid out wholly in such town. 1835, 155, § 2, 3.

SECT. 62. There shall be chosen in each town, at the annual  
2 meeting, two or more suitable persons to be surveyors of high-  
3 ways, to be notified and sworn like other town officers; and in  
4 case any one refuse to accept, he shall forfeit the sum of ten  
5 dollars to the use of such town; but no person shall be held to  
6 serve in said capacity more than once in three years. 1821, 118, § 13.

SECT. 63. The selectmen of every town, before the first day  
2 of May, annually, shall, in writing assign to each surveyor his  
3 divisions and limits, which assignment he is hereby required to  
4 observe. 1821, 118, § 13.

SECT. 64. Whenever any town shall elect the selectmen, sur-  
2 veyors of highways, they may in writing delegate their power or  
3 any part thereof, to such persons as they deem proper. 1821, 118, § 13.

SECT. 65. Every town shall raise such sum of money to be  
2 expended in labor and materials on the highways and town  
3 ways, as they shall determine to be necessary; and the assessors  
4 shall assess the same on the polls and the estates, real and per-  
5 sonal, of the inhabitants, residents and non-residents of their  
6 town, as other town charges are by law assessed; and shall  
7 deliver to each surveyor a list of the persons and the sums at  
8 which they are severally assessed for his limits, on or before the  
9 first day of June in each year, excepting in Portland. 1821, 118, § 13. 1832, 21.

SECT. 66. At least two thirds of the sums granted by any  
2 town for making and repairing ways, shall be laid out and  
3 expended for that purpose, before the first day July next after  
4 granting the same. 1821, 118, § 13.

SECT. 67. The surveyor shall give reasonable notice, in writ-  
2 ing if desired, to each person on his list, resident in the town,  
3 of the sum he is assessed to the highways and town ways, and  
4 also forty-eight hours notice, extraordinary casualties, excepted,  
5 of the times and places, he shall appoint for providing materials  
6 and laboring on the same, to the end, that each person may have

7 opportunity to work thereon in person or by substitute, or with  
8 his oxen, horses, cart or plough, at the prices affixed by the town  
9 to such labor or materials to the full amount of the sum at which  
10 he is assessed; or he may pay the surveyor in money, the sum  
11 he is assessed, which it shall be the duty of the surveyor to  
12 expend, according to his best discretion, in labor or materials  
13 for repairing the ways in his limits. 1821, 118, § 13.

SECT. 68. When the highways or town ways in any town are  
2 blocked up or incumbered with snow, the surveyor within whose  
3 limits the same may happen, shall forthwith cause so much  
4 thereof to be removed, or trodden down, as will render the  
5 roads passable, in such way and manner as the town shall direct,  
6 otherwise at his discretion. In case of any sudden injury to  
7 bridges, or roads, he shall without delay cause the same to be  
8 repaired. 1821, 118, § 18.

SECT. 69. 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, by the selectmen, a triangular sled not less than ten  
4 feet in the base, made of timber, not less than ten inches in  
5 diameter, or other effectual apparatus of equal width for open-  
6 ing roads obstructed with snow; and it shall be the duty of  
7 surveyors of highways, whenever the roads are so obstructed,  
8 to make use of the same in the districts aforesaid, and on such  
9 other roads as their towns may direct. 1836, 219, § 2.

SECT. 70. 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  
7 town taxes and paid into the town treasury. 1821, 118, § 13.

SECT. 71. 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 dangerous  
4 the passage of any highway or town way. 1821, 118, § 14.

SECT. 72. He may also dig for stone, gravel or other mate-  
2 rials suitable for making or repairing the roads, in any land not  
3 planted, nor inclosed, and the same may remove to any place  
4 on the roads in his district where he may judge it necessary;  
5 provided however, that, if the land where such materials are  
6 dug up be not within the limits of the highway or town way as  
7 laid out, the proprietor thereof shall be entitled to an equivalent  
8 in money from the town to be recovered after demand on and  
9 refusal by the surveyor, in an action on the case, as on an  
10 implied promise. 1821, 118, § 14.

SECT. 73. No surveyor of highways shall, without the appro-  
2 bation of the selectmen first being had in writing, cause any  
3 water course occasioned by the wash of a highway or town way,  
4 to be so conveyed by the side of such way, as to incommode



5 any person's house, store, shop or other building, or to obstruct  
 6 any person in the prosecution of his business; and any person  
 7 aggrieved by the conveying of such water course, in manner  
 8 aforesaid, may complain to the selectmen who, on receiving  
 9 such complaint, shall view the water course complained of, and  
 10 after due examination of the same, may direct the surveyor to  
 11 alter the said water course, in such manner as they shall  
 12 determine. 1821, 118, § 14.

SECT. 74. 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  
 6 exceeding fifteen per centum in addition to the highway tax  
 7 committed to him, to make up the deficiency. The persons thus  
 8 employed shall be paid a reasonable compensation from the town  
 9 treasury, or in such other mode as the town may have previously  
 10 prescribed. 1821, 118, § 15. M. R. S. 25, § 14.

SECT. 75. Towns may raise such sums of money, from time  
 2 to time, as they may deem necessary to be laid out in making  
 3 or repairing highways or town ways including bridges in such  
 4 towns, and may direct the same to be assessed upon polls and  
 5 estates and collected, as other taxes are, and the same shall be  
 6 expended for the purposes aforesaid by the selectmen.

1821, 118, § 19. 1832, ch. 17. 1836, 219, § 1.

Vol. 3d, 399, § 4.

SECT. 76. Any town at an annual meeting, may authorize  
 2 their assessors to abate any part, not exceeding three dollars of  
 3 the road tax of any inhabitant thereof, whether payable in money  
 4 or otherwise; provided such inhabitant shall exhibit to such  
 5 assessors satisfactory proof of his owning and exclusively using  
 6 on the public roads cart wheels having felloes not less than  
 7 ~~seven~~ inches in width, during the year for which the tax may be  
 8 assessed. Vol. 3d, 427.

SECT. 77. Every town may authorize their surveyors, or other  
 2 persons, to enter into contracts for making or repairing the  
 3 highways or town ways, within the same. 1821, 118, § 16.

SECT. 78. Every town may also empower the surveyors to  
 2 collect all such taxes, as shall not be paid in labor, or otherwise  
 3 within the time limited by law, or at such periods as may be  
 4 agreed upon by the town; and for that purpose, the assessors  
 5 shall deliver to them warrants of distress, which shall be in sub-  
 6 stance like the warrants, prescribed by law for collecting other  
 7 town taxes; or they may deliver a warrant for collecting the  
 8 deficiency in any highway tax to the collector, who shall then  
 9 proceed to collect the same in like manner as other taxes are, by  
 10 law to be collected and shall pay over the same to the respective  
 11 surveyors who shall be held to account with the selectmen for  
 12 the expenditure thereof. 1821, 118, § 16.

SECT. 79. If any money shall remain unexpended in the hands of the surveyors, after the expiration of their office they shall pay the same to the town treasurer. 1821, 118, § 16.

SECT. 80. If any surveyor shall neglect to pay over such sums to the treasurer for the time being, on demand, such treasurer may recover the same with twenty per cent. in addition thereto, in an action, for money had and received to be commenced in the name of, and for the use of the inhabitants of the town. 1821, 118, § 17.

SECT. 81. Every surveyor who shall receive his rate bill, shall exhibit the same to the selectmen on the first Monday of July, annually, and also at the expiration of the term, for which he may have been appointed; and at those times respectively, shall render an account of all monies that may have been expended by him on the ways; if he unreasonably neglect so to do he shall for each offence forfeit twenty dollars to the use of the town, to be recovered with costs, in an action of debt to be prosecuted in the name of the town, by the treasurer thereof. 1821, 118, § 17.

SECT. 82. Any town at its annual meeting may, if they see cause, elect by ballot, one or more road commissioners, not exceeding five, in lieu of surveyors of highways. Said commissioners shall be duly sworn, and vacancies in the board may be filled in like manner from time to time, during the year, at any town meetings duly notified. 1832, 27, § 1.

SECT. 83. Such commissioners, except as hereinafter provided shall have all the rights and powers conferred upon, and be subject to the duties enjoined upon surveyors of highways in this chapter. They shall also be liable to the same penalties for neglect and misfeasance, so far as they may be individually and personally guilty. For their services they may receive such compensation as the town may provide. Said commissioners, may at any time assign the care and oversight of any of the public roads in the town to any of their own number. 1832, 27, § 1.

SECT. 84. The town assessors shall, on request, deliver to said commissioners a rate bill of all the highway taxes by them assessed for the current year, payable in labor or in materials, with a statement of the rates and prices affixed to the same by the town. If there be more than one commissioner they may assign and distribute to any of their number the collection of said rate bill, or any part thereof, who shall proceed to notify the persons taxed and require of them the like services, as a surveyor may do within the limits assigned by the selectmen; and whose certificate made to the assessors shall be evidence of such notice and of the neglect of any persons taxed, who may not comply therewith. 1832, 27, § 2.

SECT. 85. When any person taxed on said rate bills are non-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  
7 them to appear and work out or otherwise discharge the same,  
8 by posting up advertisements thereof in two public places, or  
9 more, in said town. If no person shall appear within twenty  
10 days thereafter to discharge such taxes, agreeably to such  
11 notice, such commissioners shall make due return of such notice  
12 and neglect to the assessors as provided in the last section.

1832, 27, § 3.

SECT. 86. 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 per-  
4 son 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 col-  
10 lection 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.

1832, 27, § 4, 5.

SECT. 87. 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  
4 committed, 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 affixed 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.

1832, 27, § 6.

SECT. 88. 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  
4 rate bills to them committed for the use of the board, shall  
5 make and keep the records of accounts of the same, and receive  
6 all monies paid on account of said rate bills, and hold the same  
7 subject to be paid out as the commissioners shall order. The  
8 said chairmain shall give bond for the faithful performance of  
9 all his duties, to the town, in such penal sum and with such  
10 sureties as the selectmen shall approve. When only one road  
11 commissioner shall be appointed and serve, he shall give bonds  
12 in like manner, and be solely responsible for all duties and lia-  
13 bilities, pertaining to the office under any of the provisions of  
14 this chapter.

1832, 27, § 7.

SECT. 89. 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 to  
6 repair the same, the amount of damage sustained thereby, if  
7 such county, town or persons, had reasonable notice of the  
8 defect 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 three hundred dollars, to be paid to the executor or  
13 administrator of the deceased for the use of his heirs, to be  
14 recovered by indictment.

1821, 118, § 17. Vol. 3d, 300, § 3.

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

1821, 118, § 18.

SECT. 91. Only one indictment or information shall be pre-  
2 sented at any one term of any court, against any one town for  
3 neglect of opening highways or town ways or keeping them in  
4 repair; but as many counts may be inserted in the same, as shall  
5 be necessary to describe all the portions of ways alleged to be  
6 deficient. At the term when such indictment is found, or infor-  
7 mation filed, the prosecuting officer shall not be permitted to  
8 tax a greater number of days attendance, than the grand jury  
9 were in session at that time.

1836, 216, § 1, 2.

SECT. 92. All fines imposed on any town or plantation for  
2 deficiencies in the ways and bridges for 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 accred-  
11 ited and corrected by the court, on application of any such  
12 party.

1821, 118, § 20, 21. Vol. 3, 300, § 6.

SECT. 93. 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 amount  
4 of such fine to be recovered by indictment, to the use of the  
5 town or plantation, in whose limits said fine was to be expended.

Vol. 3, 300, § 6.

SECT. 94. 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 time  
9 as said court may order.

Vol. 3, 300, § 4.

SECT. 95. Should the same when assessed, not be paid within  
2 the time limited by the court, the clerk on application of such  
3 agent, may issue his warrant to enforce the collection thereof, as  
4 the treasurer of the State, is authorized to issue warrants to  
5 enforce the collection of the State tax.

Vol. 3, 300, § 5.

SECT. 96. If such assessors shall neglect to make such assess-  
2 ment, and to certify the same to the clerk of the said court and  
3 such town or plantation shall not cause the defective way or  
4 bridge to be repaired to the acceptance of the agent, and pay  
5 the costs of prosecution to the clerk within four months after the  
6 notice of such fine, the court may issue a warrant of distress  
7 against such town or plantation, for the collection of the fine  
8 and costs, or such part of the same as may be in arrears.

Vol. 3, 300, § 5.

SECT. 97. 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, unless the same shall there be placed for the purpose of  
4 preventing the spreading of any infectious disease, or unless the  
5 same shall have been erected or continued by the license of the  
6 county commissioners for the same county, or of the selectmen  
7 of the town; and any person aggrieved by such taking down or  
8 removal, may apply to the said commissioners, or said selectmen  
9 respectively who, if it shall appear that such gates, rails, bars  
10 or fence, were erected by license as aforesaid, may order the  
11 same to be replaced.

1832, 118, § 25.

SECT. 98. Whenever any logs, lumber or other obstructions  
2 shall be unnecessarily left on any highway, or town way, it shall  
3 be the duty of the surveyor, within whose limits the same may  
4 be so left, or in his absence, of any other surveyor within the  
5 town forthwith to remove the same. Such surveyor shall not be  
6 liable for any loss or damage happening thereto, unless occa-  
7 sioned by his gross negligence or by design. The surveyor so  
8 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 posting  
 13 up notifications in two public places in said town, seven days  
 14 at least prior to such sale. The person through whose neglect  
 15 or wilful default, said logs, lumber or other obstructions shall  
 16 be so left, shall also be liable to be prosecuted, as at common  
 17 law, for such nuisance. 1821, 118, § 25, vol. 3, 495.

SECT. 99. Wherever any building, fence or other incum-  
 2 brance, erected or continued on any highway, or town or private  
 3 way, common, training field, burying place, landing place, or  
 4 other land appropriated for public uses, or for the convenience  
 5 of the inhabitants of any county, town, parish or other local  
 6 district, shall be adjudged and determined a nuisance, and  
 7 ordered to be abated, and the materials of such building, fence  
 8 or other incumbrance, upon a sale thereof by auction, shall be  
 9 insufficient to pay the costs and charges of prosecution and  
 10 removal; the court from which the process for removal shall  
 11 issue, may order the deficient sum to be raised and levied from  
 12 the goods and chattels of the party, who shall be convicted of  
 13 erecting or continuing such nuisance. 1821, 118, § 26.

SECT. 100. 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 time,  
 5 or otherwise, the boundaries thereof are not known, or cannot  
 6 be made certain by the records, or by any monuments, such  
 7 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  
 13 of 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.

1821, 118, § 27. 1836, 238.

SECT. 101. If for 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 whom 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.

2 Greenleaf, 55—4 do., 270—5 do., 368.

SECT. 102. 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 lers in the manner hereinafter provided. 1821, 119, § 1.

SECT. 103. The selectmen of each town shall determine  
2 upon such places for the erection and maintenance of guide  
3 posts 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 recov-  
9 ered by indictment. 1821, 119, § 2, 4.

SECT. 104. At each place thus determined upon and recor-  
2 ded the town shall cause to be erected a substantial post of not  
3 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  
8 with the distance or number of miles to the same; also the  
9 figure of a hand with the forefinger thereof, pointing to such  
10 town or place. Provided nevertheless that the inhabitants of  
11 any town, at any annual meeting, may agree upon some suitable  
12 substitute for such guide posts. 1821, 119, § 3.

SECT. 105. Every town which shall neglect or refuse to erect  
2 and maintain such guide posts, or some suitable substitutes  
3 therefor, in the places recorded and determined on as aforesaid,  
4 shall forfeit and pay to the use of the State, five dollars for each  
5 and every guide post they shall so neglect or refuse to erect and  
6 maintain to be recovered by indictment. 1821, 119, § 4.

SECT. 106. 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 or  
5 towns shall be performed by the assessors of such plantations  
6 under the like penalties. 1821, 120.

SECT. 107. 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 jus-  
5 tice may issue his warrant therefor, setting forth the time, place  
6 and purpose of the meeting; and said warrant shall be posted  
7 up in some public place of the town, in which such way or  
8 bridge is situate, seven days at least before the time appointed  
9 for said meeting. 1821, 119, § 1.

SECT. 108. 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 exer-  
8 cised by the surveyors of highways. 1821, 119, § 1.

SECT. 109. If any proprietor or occupant, when duly required by the surveyor shall neglect or refuse to furnish his proportion of labor or materials for the repair of such way or bridge determined on as provided in the section last preceding, he shall be subject to the like penalties, as are provided in case of highways, and to be recovered in like manner. 1821, 119, § 1.

SECT. 110. If any surveyor, thus chosen by said proprietors or occupants, shall refuse or neglect to accept that trust, and to take the oath aforesaid, he shall forfeit the sum of four dollars, to be recovered in manner aforesaid. 1821, 119, § 2.

SECT. 111. The said proprietors and occupants, at any legal meeting called for the purpose, may authorize their surveyor or any other person to contract by the year, or for a shorter time for making and keeping in repair any such way or bridge to them belonging, and for that object may raise such sum of money as they may judge necessary and choose assessors, who shall assess the same on the said proprietors and occupants in proportion to their interest in such way or bridge, and who shall deliver the bill of such assessments to the said surveyor with proper warrants of distress, in substance, as is prescribed by law for collecting town taxes. 1821, 119, § 3.

SECT. 112. Such surveyor may levy and collect all taxes for the purpose aforesaid, in the same manner as surveyors of highways may be empowered to collect highway taxes by virtue of section seventy-eight, of this chapter. 1821, 119, § 3.

SECT. 113. If any such surveyor shall refuse or neglect to pay over the monies so collected to such persons as he in his warrant of distress, shall be required when demanded, he shall be liable to the same penalty as is provided in section eighty of this chapter, in case of surveyors of highways failing to pay over monies to the town treasurer in like circumstances, to be recovered in a like action. 1821, 119, § 3.

SECT. 114. All suits brought to recover forfeitures, under the one hundred ninth, one hundred tenth and one hundred thirteenth sections of this chapter shall enure to said proprietors and occupants, and the amount recovered shall be expended on such private way or bridge. In all processes pertaining to such suits, it shall be sufficient to describe such proprietors and occupants in general terms as the proprietors and occupants of such way or bridge, the same to be clearly described therein, and the validity of such processes shall not be affected by any change of the plaintiffs, arising by death of any of them, or other transfer of interest. 1821, 119, § 2.

SECT. 115. When any land the title of which is in the State of Maine, is in the occupancy or possession of any person under the State, he shall be liable to be assessed therefor, for the making and supporting of ways in the place where the same is situated, and his interest therein shall be liable to be sold for any assessment made for that purpose, in the same manner and for the same causes, as if he owned the fee simple thereof or



8 any other interest therein ; and the officer selling the same shall  
9 give deed in like manner.

SECT. 116. Any purchaser under such deed, shall be entitled  
2 to receive from the land agent or other person, authorized to  
3 give deeds in behalf of the State, a deed of the premises on  
4 complying with all the conditions, under which the land was to  
5 have been conveyed by the State to the former occupant or  
6 possessor ; provided that the former occupant or possessor shall  
7 have the same right to redeem the premises, after the sale speci-  
8 fied in the preceding section, as is reserved in the sale of other  
9 lands for highway taxes.

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## NOTES.

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SECT. 1. The very general terms in which the statute of 1839, ch. 367, is drawn, render it rather difficult to determine the limits of the jurisdiction of the county commissioners in respect to highways. It is presumed that the power of the commissioners to alter or discontinue any county road, heretofore laid out, is not intended to be restricted, though such road may not fall within the general description of new roads which the commissioners are authorized to locate.

SECT. 7. The latter clause of this section is designed to express what has already been settled by judicial decisions, as to the kinds of interest on account of which damages may be assessed.

SECT. 10, 11. These sections contain new provisions, the convenience of which we presume is sufficiently obvious to preserve the rights of the parties, or to prevent the delay arising from the institution of a new process.

SECT. 16, 17, 18. These sections are more minute as to the course of proceedings where juries are appointed to estimate damages, than the existing laws. The provision for the appointment of a presiding officer by the commissioners, is new and may be convenient in certain complicated and strongly contested cases. It will be noticed, the appointment of such an officer is not proposed to be imperative upon the commissioners. Cases may be easily conceived where such appointment might be a saving of expense to the parties, more than equal to the compensation of the officer.

SECT. 28. As notice to the parties interested is an essential prerequisite to the location of town or private ways, we have considered it important in this section to prescribe what notice shall be given.

SECT. 32. See the note to section 1. It will be perceived that as the act of 1839, ch. 367, is understood by us, no remedy exists to correct the wrong decision of the selectmen or town in case of any way, which does not lead from land under the possession and improvement of the complainant to some highway or town way. Whether other cases requiring the like remedy may not exist, is for the consideration of the Legislature, vi. sect. 34.

SECT. 33. As analogy seems to require that an appeal should lie to the county commissioners where towns unreasonably refuse to discontinue a way, as well as for refusing to accept the location of a new one, this section if adopted will supply the deficiency.

SECT. 35. Some restriction of the kind here mentioned is thought by us important as a check upon nullification by towns of the doings of the county commissioners. Whether the term should be fixed at more or less than five years, is not so material.

SECT. 40. Some new provisions are introduced into this section to promote a safer course of proceeding and to secure the rights of towns as well as of the public.

SECT. 57. Under the act of 1821, ch. 118, vi. section 13 and 18 of that act, a delinquent town might be prosecuted either by indictment or information by the attorney general for defective highways. See 5 Greenleaf, p. 254, *State vs. Kittery*. By the act of 1827, ch. 370, § 3, it was provided that in all such cases the prosecution should be by information. This last mentioned provision was repealed by the subsequent act of 1829, ch. 452, since which the process by information seems to have been discontinued. The commissioners do not however find that the law is affected by the last mentioned act so far as it existed prior to the act of 1827, and they have retained the provisions giving a choice of modes between this and indictment, leaving it to the Legislature to abrogate one of the modes, if they deem it expedient, vi. sect. 90 and 91.

SECT. 72. The concluding part of this section is intended to provide for a satisfaction for private property taken for public uses agreeably to the constitution, vi. act. 1. sect. 21.

SECT. 114. At the close of this section a new provision is introduced, which seems necessary in order to render it safe for the proprietors to prosecute, if they should happen to be numerous.

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## CHAPTER 26.

### OF THE LAW OF THE ROAD.

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- Sect. 1. Duty of travellers meeting on the road in carriages, &c.  
 2. Same subject.  
 3. Duty when overtaking any person and passing him.  
 4. No team or carriage to be left without a driver.  
 5. No sleigh, &c. to pass without bells.  
 6. Penalty, &c.  
 7. No stage driver to leave his horses untied, &c.  
 8. Proprietors of bridges may prohibit travellers from driving faster than a walk.  
 9. Selectmen may do the same as to town bridges.  
 10. Penalty for violating, &c. provided notice be posted, &c.—except—  
 11. No wagon to pass certain roads except with wide rimmed wheels, &c.  
 12. Penalty for so doing.  
 13. Justice may issue warrant to seize wagon and teams.
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SECT. 1. Whenever any persons shall meet each other on any  
 2 bridge, turnpike or other road, travelling 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 travelled part of such road or bridge,  
 6 when practicable so that the respective carriages or other vehi-  
 7 cles aforesaid may pass each other without interference.

1824, 245, § 1.

SECT. 2. Where it is difficult or unsafe for persons travelling  
 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 travelled part, as aforesaid, any person thus prevented, when

6 meeting with any other person travelling with any of the car  
7 riages or vehicles aforesaid, shall stop a reasonable time at  
8 a convenient part of the road to enable such other person to  
9 pass by. 1824, 245, § 1.

SECT. 3. Whenever any person travelling 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 travelling at a  
5 slower rate and shall request such other person to permit him to  
6 pass, it shall be the duty of the person, so overtaken, to turn or  
7 drive his carriage or vehicle to the right or left of the middle of  
8 the travelled part of said bridge or road, or to stop a reasonable  
9 time in some convenient place for the other person to pass by.  
1824, 245, § 2.

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 travelling with any carriage or other  
6 vehicle. 1824, 245, § 3.

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. 1824, 245, § 4.

SECT. 6. Every person offending against either of the forego-  
2 ing provisions, shall forfeit for each offence, 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 offence  
6 shall have been committed, made within sixty days thereafter.  
7 Any person injured by any of the offences 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.  
1824, 245, § 5.

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  
7 by imprisonment not exceeding one month or by fine not exceed-  
8 ing thirty dollars.

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. 1833, 53, § 1.

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. 1833, 53, § 2.

SECT. 10. Any person wilfully riding or driving any horse  
2 contrary to the provisions of either of the two preceding sections,  
3 shall be liable to a penalty not exceeding five dollars, to be  
4 recovered by the proprietors of such bridge or the inhabitants  
5 of such town respectively, provided that a board, giving notice  
6 of such liability, legibly printed in black letters, on a white  
7 ground, be kept exposed in a conspicuous position at each end  
8 of said bridge provided that no person shall be liable to such  
9 penalty, driving after sunset or before sunrise, unless he had  
10 actual knowledge of such prohibition and penalty.

1833, 53, § 3.

SECT. 11. No cart nor wagon, drawn by more than one horse,  
2 shall pass upon the Mattanawcook State road, nor upon the  
3 United States military road in this State, unless the felloes of  
4 the wheels thereof be at least four inches in width ; and no cart  
5 or wagon drawn by oxen, shall pass upon said roads or either of  
6 them unless the felloes of the wheels thereof, be at least six  
7 inches in width ; provided, that this restriction shall not apply to  
8 any cart, wagon or other carriage, the property of the United  
9 States or of this State, nor to any pleasure carriage—nor to any  
10 cart or wagon drawn by two oxen or two horses only, carrying  
11 a load not exceeding fifteen hundred pounds.

1833, 52, § 1. 1839, March 23d.

SECT. 12. If any cart or wagon shall pass upon either of  
2 said roads contrary to the provisions of the preceding section,  
3 the owner or driver thereof shall forfeit not less than ten dollars  
4 for each offence, together with one dollar, in addition, for each  
5 mile of said road passed, as aforesaid, to the use of the State ;  
6 to be recovered by complaint before any justice of the peace  
7 for the county in which such offence may have been committed,  
8 with costs. 1833, 52, § 2.

SECT. 13. Any such justice of the peace before whom such  
2 complaint may be pending, may also on libel, on complaint  
3 therefor, issue his warrant to seize and detain the carts or wag-  
4 ons, with the teams thereof, found on either of said roads,  
5 having been used by any person in violation of the provisions of  
6 section sixteenth of this chapter, which may be held to respond  
7 the fine and costs, to be awarded against such owner or driver.

1833, 52, § 2.

## CHAPTER 27.

## OF FERRIES.

- Sect.* 1. Who may keep a ferry.  
 2. County commissioners may appoint ferrymen and establish tolls.  
 3. Persons damaged by their default, may recover.  
 4. Must keep a good boat, attend, &c.  
 5. Penalty for neglect, &c.  
 6. Town or towns must supply a boat, &c. in certain cases.  
 7. Towns may maintain ferry, jointly or alternately.  
 8. Penalty for town's neglect.  
 9. Penalty for keeping a ferry without license.  
 10. Ferrymen bound to level the ice, and keep way clear.  
 11. Condition of ferryman's bond.  
 12. Forfeiture for each day's neglect.  
 13. Such ferryman shall keep no horse or steam boat, except, &c.  
 14. Persons authorized to keep horse or steam boats, may, in certain cases, use any other kind.  
 15. Penalty for obstructing ferry ways.  
 16. Exception to the restriction in last section.  
 17. Proprietors of ferry may sink piers for guarding boats, &c.  
 18. Mode of recovering forfeitures.

SECT. 1. No person shall keep a ferry and receive pay, unless he shall first obtain a license therefor, from the county commissioners, and such license may be granted for such time, as the commissioners shall think proper and they may revoke it, when necessary; excepting where ferries are already established by law. 1821, 176, § 1.

SECT. 2. Said commissioners are hereby authorized to grant such licenses to such persons, and for such places as they shall judge suitable; excepting where ferries are already established. They shall also establish the fares or tolls at each ferry by them licensed, for passengers, beasts, vehicles, or other things, there transported; always having regard to the comparative length and situation of each ferry and the number of persons passing the same; and in all cases taking a bond from the person licensed, in such penal sum as they think necessary, to the treasurer of the State, with sufficient sureties of each ferryman, for the faithful performance of his duties. 1821, 176, § 1.

SECT. 3. Any person who shall sustain an injury in his person or property by the negligence or default of any ferryman, may have a remedy in an action upon the bond required in the section last preceding. In such action the like proceedings may be had, as in the case of actions brought on the bonds of sheriffs as provided in chapter one hundred and four. M. R. S. 26, § 5.

SECT. 4. Every keeper of a ferry, of whatever description, shall keep a good boat or boats in good repair, suitable to the waters, where they are to be used, and give ready and due attendance on passengers on all occasions, according to the regulations established for his ferry. 1821, 176, § 2.

SECT. 5. The keeper of every such ferry, for every neglect of keeping a boat or boats according to such regulations, shall forfeit twenty dollars, one half to him, who shall prosecute for the same, and the other half to the State; and for every neglect of such attendance he shall forfeit one dollar to him who shall sue therefor. He shall in each case be further liable in an action on the case to the party injured to the amount of his damages. 1821, 176, § 2.

SECT. 6. 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. 1821, 176, § 4.

SECT. 7. 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. 1821, 176, § 5.

SECT. 8. 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, one half to the use of the State, and the other half to the person, who shall prosecute for the same. 1821, 176, § 6.

SECT. 9. 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, one half to the use of the State, and the other half to the prosecutor; 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. 1821, 176, § 3. M. R. S. 26, § 6.

SECT. 10. 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 travellers 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 travellers 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. 1825, 292, § 2. 1839, March 23.

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

1825, 292, § 2. 1839, March 23.

SECT. 12. Every such ferryman, or other person contracted with, as provided in the preceding section, as the case may be, for each day's neglect of the duties required by the tenth section of this chapter, shall forfeit ten dollars; one half to the use of the county where such ferry way be, and the other half to the use of the person, who may prosecute for the same; and shall be further liable to pay in an action on the case, all such special damages, as any person shall sustain by such neglect.

1825, 292, § 2. 1839, March 23.

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

1830, 457, § 1.

SECT. 14. Any individual person, or corporation, by law authorized and required to keep, use and employ horse, steam or team boats, at any ferry—may, notwithstanding the requirements of their license, in the night or at any other time, when the passage of such ferry would be dangerous for said boats, use any other kind of boats that shall be safe and convenient for the transportation of passengers and whatever else he or they may be liable to transport.

1830, 457, § 2.

SECT. 15. No person except whilst necessarily obliged in the night time or by stress of weather, shall anchor, moor, or deposit any vessel, boat, raft or water craft in any river at a place where there is a ferry authorized by law, in such manner as to obstruct the passage of the ferry boat in its ordinary routes; under penalty of forfeiting twenty dollars to the use of the proprietors of the ferry, if the offence be committed wilfully, or if the offence be committed inadvertently, and the person committing the same shall neglect or refuse to remove such vessel, boat, raft

10 or water craft within thirty minutes after notice of the improper  
11 position of the same, to be recovered in a special action on the  
12 case. 1833, 588, § 1, 2.

SECT. 16. No person shall be liable to the penalty of the  
2 preceding section for anchoring his vessel, or boat, or raft for  
3 the purpose of hauling in to any wharf, pier, landing or dock,  
4 if he shall not be guilty of unreasonable hindrance to the busi-  
5 ness of the ferry, by delay or wilful mismanagement in so doing.

1833, 588, § 1, 2.

SECT. 17. 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 freshes—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.

SECT. 18. Any forfeiture mentioned in this chapter and accru-  
2 ing in part to the State, or any county and the rest to him who  
3 shall sue therefor, may be recovered in an action of debt brought  
4 by such prosecutor. 1821, 196, § 6.

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## NOTE.

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SECT. 2 and 3. An amendment of the law is here attempted for the purpose  
of defining to whom the bond should run and in what manner it may be enforced.

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## CHAPTER 28.

### OF WORK HOUSES.

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- Sect.* 1. Every town may erect a work house—the persons who may be confined  
in it.  
2. May choose overseers of the poor, to govern the same.  
3. They shall hold monthly meetings and make needful orders.  
4. Two or more contiguous towns may unite in erecting such a house.  
5. Such a house to be under the regulation of a joint board of overseers.  
6. Mode of their choice and government.  
7. They shall have stated quarterly meetings and others, on due notice  
given.  
8. Their powers at general meeting.  
9. Same subject.  
10. Same subject.  
11. Compensation of their master and assistance and expense of keeping of  
the house.  
12. Penalty on delinquent town as to payment of its proportion of allowed  
expenses.



- Sect. 13. Any two or more overseers in a town may commit to such house any person mentioned in the first section—by a constable.
14. No town shall, by its overseers, place more than its proportion of persons in it.
15. Idle persons, having no settlement in this State, may be committed to work house—and on what terms.
16. Neglect on the part of a town jointly in a work house to provide, &c.—how punished.
17. In addition—same subject.
18. Duties of the master of such house.
19. Overseers may determine all controversies, between the master and said overseers of any town, as to his official conduct, at a general or quarterly meeting.
20. Town not answerable for expense of any person not sent there by the overseers of such town—mode of discharge.
21. Every person duly committed, to be kept employed—punishable for idleness, &c.
22. What compensation master is entitled to, in addition to his annual salary.
23. Such work house may be discontinued by consent of those concerned.

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.

1821, § 1, 7. M. R. S. ch. 16.

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 for the more immediate care and superintendence of the persons received, or employed therein.

1821, § 1, M. R. S. § 2.

SECT. 3. The said overseers, once in every month and at other times, as occasion shall require, shall hold meetings, on the business of their office. At their stated monthly meetings they may make needful orders and regulations for such house, to be binding until next town meeting, when the same shall be submitted to the consideration of the inhabitants, and such as shall be approved at said meeting, shall remain in force, until revoked by the town.

1821, § 1.

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

1821, § 2.

SECT. 5. The ordering, governing and repairing of any work house, erected or provided at the joint expense of two or more towns, and the appointing a master and necessary assistants, and the removing them from office for sufficient cause, shall be vested in a joint board of overseers, to be chosen as provided in the next section. 1821, § 2, M. R. S. 5. 6.

SECT. 6. Each of said towns at their annual meeting shall choose three members of said board, unless all said towns shall agree on a different number. Vacancies in said board may be supplied by the town, in which it happens, at any legal meeting. The members appointed by any one or more of said towns shall have power to proceed in all affairs of said house, notwithstanding any one or more of the towns interested, shall have neglected to furnish their proportion of members. 1821, § 3.

SECT. 7. There shall be stated quarterly meetings of all the said overseers on the first Tuesday of January, April, July and October, to be held at the work house, in order to inspect the management and direct the business thereof. Besides the quarterly stated meetings, other meetings to be held at the work house may be called by the overseers of any town concerned; they giving notice of the time and occasion thereof to the other members of said board, in such manner, as shall have been agreed upon at any stated meeting thereof. 1821, § 4.

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. 1821, § 5.

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. 1821, § 6.

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. 1821 § 7.

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. 1821, § 8.

SECT. 12. If any town shall refuse or neglect to advance, or  
2 reimburse its proportion of such allowance or other charges  
3 mentioned in this chapter, after they shall have been stated and  
4 adjusted by the joint board of overseers, the same may be recov-  
5 ered of such delinquent town, in an action to be brought in the  
6 name of any person or persons, whom the overseers shall in  
7 writing appoint for that purpose. 1821, § 5.

SECT. 13. Any two or more overseers, in any town, having a  
2 work house, either in severalty or in conjunction with other  
3 towns, may by order under their hands commit to such house,  
4 subject to the regulations thereof any person residing in their  
5 town, who is declared in this chapter to be liable to be sent  
6 there. Such order for commitment, directed to any constable  
7 of the same town, may be served by the same constable. 1821, § 6.

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  
5 exclude or incommode such as belong to other towns interested. 1821, § 6.

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; and the  
6 overseers of said house, shall keep a true account of the charge  
7 of supporting such person, and shall exhibit the same, once in  
8 every year, to the Legislature for allowance and payment,  
9 deducting therefrom the amount of such person's earnings. 1821, § 8.

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  
7 person thither, until it shall comply with such agreement, or  
8 direction. 1821, § 9.

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. 1821, § 10.

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.

1821, § 10.

SECT. 19. All controversies between the master of such house  
2 and the overseers of any town, relating to his official transactions,  
3 may be determined by the overseers of the house at a general  
4 or quarterly meeting.

1821, § 11.

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 district court, held in the same county upon application for  
8 that purpose.

1821, § 11.

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 pro-  
5 vided for by the standing regulations of the house authorized in  
6 this chapter (and not repugnant to the laws of the State).

1821, § 11.

SECT. 22. The master of any work house shall be entitled to  
2 one third part of the profits of the work done, by persons under  
3 his charge in addition to his annual compensation herein before  
4 provided for. The other two thirds and such part of the stock  
5 as may remain on hand, shall be at the disposal of the overseers  
6 of the town to which such person and stock belong, either for  
7 the use of such town, or the persons committed, or the families  
8 of such persons.

1821, § 12.

SECT. 23. 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.

1821, § 13.

SECT. 24. Nothing contained in this chapter shall be con-  
2 strued to affect any powers and privileges heretofore granted to  
3 any towns, or the overseers of the poor thereof, by any act  
4 specially relating to work houses erected in such towns.

M. R. S. 16, § 25.

## CHAPTER 29.

## OF FENCES AND COMMON FIELDS.

- Sect.*
1. What are legal fences.
  2. How they shall be maintained by occupants.
  3. Aggrieved party may complain to fence viewers and their proceedings—  
and when had.
  4. How party may obtain compensation for making fence.
  5. When adjoining owners or occupants disagree as to their rights and  
duty, what proceedings to be had.
  6. If party neglects to build fence assigned to him,—proceedings.
  7. Division fences kept in repair,—unless, &c.
  8. In certain cases fences may be varied from true line by order of fence  
viewers.
  9. Fence viewers may divide line between parties.
  10. Occupants ceasing to improve, shall not remove fence.
  11. When uninclosed land, &c. shall be used, the owner shall pay for half  
the fences on the dividing line, &c. as fence viewers shall decide,—  
penalty for neglect.
  12. In certain cases fence viewers must belong to different towns.
  13. When a division of fence is made and recorded—effect, &c.
  14. The preceding section, not to extend to home lots.
  15. When distinct lots are enclosed in a common field by consent, meetings  
may be held for business.
  16. Mode of calling such meeting.
  17. Mode of notifying all concerned.
  18. How proprietors may vote at meetings.
  19. They may raise money for defraying charges, &c.; abatement of any  
assessment how made, &c.
  20. May choose officers, &c.
  21. Clerk to issue warrant for collecting monies assessed.
  22. The whole fence to be apportioned among proprietors according to  
their interest and each one's part assigned and recorded.
  23. A proprietor not using his part to pay nothing.
  24. Expense of apportioning the fence, and of maintaining certain parts of  
it—how defrayed.
  25. If any proprietor neglects to repair his part of the fence—consequences  
of the neglect.
  26. Persons making fence for a delinquent proprietor may recover of him or  
his tenant double the cost of repairs.
  27. If part of the fence be suddenly destroyed, proceedings to be had.
  28. Proprietors may choose field drivers, their powers.
  29. Any proprietor overstocking the common field in any manner, shall be  
considered a trespasser.
  30. Any proprietor whose beasts may be injured by a stranger may have a  
several action for damages, &c.
  31. Lines to be run between lands of different owners.
  32. A major part of proprietors at legal meeting, may discontinue their  
association—after six months.
  33. Proviso.
  34. Certain parts of the common lands excluded from estimates and assess-  
ments.
  35. Any three or more proprietors may request to have their lots divided from  
the remainder, and proceedings to be had on such application.
  36. When a major part in interest of any tract of land consisting of five or  
more allotments, are desirous of enclosing a common field, proceedings  
to be had.
  37. When such common field is established, proprietors may proceed as pro-  
vided in this chapter.

Sect. 38. Every town shall choose two or more fence viewers who shall be duly sworn.

39. Penalty for refusing to perform the duties assigned them in this chapter.

40. How fence viewers shall be paid,—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. 1821, 44, § 2.

SECT. 2. The respective occupants of lands, enclosed with fences, shall maintain partition fences, between their own and the next adjoining enclosures, in equal shares, so long as both parties continue to improve the same. 1821, 44, § 2.

SECT. 3. In case any party shall neglect or refuse to repair or rebuild any such fence, which of right he ought to maintain, the aggrieved party may complain to two or more fence viewers of the town, where the land is situated, who after due notice to each party shall proceed to survey the same; and if they shall determine that the fence is insufficient, they shall signify the same in writing to the delinquent occupant of the land and direct him to repair or rebuild the same, within such time, as they shall judge reasonable, not exceeding six days. If the fence shall not be repaired, or rebuilt, accordingly, it shall be lawful for the complainant to make or repair such fence. 1821, 44, § 2.

SECT. 4. When the complainant shall have completed such fence, and the same shall have been adjudged sufficient, by two or more of the fence viewers, and the value thereof—together with the fence viewers' fees, certified under their hands, he may demand and recover, either of the occupant or owner of the land, where the fence was deficient as aforesaid, at his election, double the value and fees, thus ascertained; and in case of neglect or refusal to pay the same, for one month after demand the complainant may sue for and recover the same by a special action on the case, with interest at the rate of one per cent a month. 1821, 44, § 2.

SECT. 5. When the occupants or owners of adjacent lands, disagree respecting their rights in partition fences, and their obligations to maintain the same, on application of either party to two or more fence viewers of the town, where the lands lie, said fence viewers, after reasonable notice to each party, may, in writing under their hands, assign to each party his share thereof and limit the time in which each party shall build or repair his part of the fence, not exceeding six days, as provided in the third section of this chapter. Such assignment, and all other assignments of proprietors of partition fences, provided for in this chapter being recorded in the town clerk's office, shall be binding upon the parties, and all who may afterwards occupy the lands, and they obliged always thereafter to maintain their

14 part of said fence. If such fence shall have been already built  
15 and maintained by the parties in unequal proportions, and the  
16 fence viewers shall adjudge the same to be good and sufficient,  
17 they may after notice as aforesaid, in writing under their hands,  
18 award to the party who may have built and maintained the  
19 larger portion the value of such excess to be recovered in an  
20 action on the case against the other party if not paid within six  
21 months after demand. 1821, 44, § 3.

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  
4 in this chapter; and he shall be entitled to double the value,  
5 and expenses ascertained, and to be recovered in like manner as  
6 aforesaid. 1821, 44, § 3.

SECT. 7. All division fences shall be kept in good repair  
2 throughout the year, unless the occupiers of the adjacent lands  
3 shall otherwise agree. 1821, 44, § 3.

SECT. 8. When from natural impediments, in the opinion of the  
2 fence viewers having jurisdiction of the case, it may be imprac-  
3 ticable, or unreasonably expensive to build a fence on the true  
4 line between the adjacent lands, if the occupants disagree  
5 respecting the position of their partition fence, then said fence  
6 viewers, on application of either party, as provided in the fifth  
7 section of this chapter, and after notice to both parties, and on  
8 view of the premises, may determine by a certificate under their  
9 hands communicated to each party, on which side of the true  
10 line and at what distance, or whether partly on one side and  
11 partly on the other and at what distances, as they shall see cause,  
12 the fence shall be built and maintained, and in what proportions,  
13 under all the circumstances of the case, by the respective parties;  
14 and either party may have the same remedy against the other,  
15 as is herein before provided in regard to assignments of partition  
16 fences made by fence viewers. 1821, 44, § 4.

SECT. 9. When adjacent lands have been occupied in common  
2 without a partition fence; and either party desires to occupy  
3 his own in severalty, or when a fence running into the water is  
4 necessary to be made and the parties liable to build and main-  
5 tain the same disagree, either party may have the line divided  
6 on application to the fence viewers of the town, who shall  
7 proceed in like manner as is provided for the disagreement men-  
8 tioned in the fifth section of this chapter; excepting that the  
9 fence viewers may allow a longer time than six days for building  
10 the fence, if they think proper having regard to the season of  
11 the year—In other respects the remedy for the aggrieved party  
12 shall be the same as is provided in the case aforesaid. 1821, 44, § 7.

SECT. 10. When one party shall cease to improve his land, or  
2 shall lay open his enclosure, he shall not take away any part of  
3 the partition fence belonging to him and adjoining to the next  
4 enclosure improved provided the owner or occupant thereof will

5 allow and pay therefor, so much as two or more fence viewers  
6 shall, on due notice to both parties determine to be the reason-  
7 able value of such part of the fence. 1821, 44, § 6.

SECT. 11. Whenever any land, which has lain unenclosed  
2 shall be afterwards enclosed, or shall be used for depasturing,  
3 the occupant or owner thereof shall pay for one half of each  
4 partition fence, standing upon the line between his land and the  
5 enclosures of any other occupant, or owner, the value thereof,  
6 to be 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 parti-  
12 tion 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. 1821, 44, § 6.

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 in  
4 another town, a fence viewer shall be taken from each town.

1821, 44, § 6.

SECT. 13. In all cases, where a division of fence, between  
2 the owners of improved lands, has been or shall be made, either  
3 by fence viewers, or by the written agreement of the parties,  
4 recorded in the office of the clerk of the town, where such  
5 lands are situate, the several owners of such lands, and  
6 their heirs and assigns, forever, shall erect and support such  
7 fences agreeably to such division; provided that if any person  
8 shall lay his lands common, and determine not to improve any  
9 part of the same, adjoining the fence, divided as aforesaid, and  
10 shall give six months notice to all occupants of adjoining lands,  
11 he shall not be required to maintain such fence, during the time  
12 his lands shall so lie common and unimproved.

1821, 44, § 3. M. R. S. 19, § 15.

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

1821, 44, § 7.

SECT. 15. When several distinct lots or pieces of land  
2 are enclosed and fenced in one common field, or when all the  
3 proprietors of such land shall agree to enclose them in that  
4 manner, the said proprietors may hold regular meetings at such  
5 times as they shall judge proper to make such rules of manag-  
6 ing 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, enclose  
9 or manage and improve his own land as he shall think best, but  
10 he shall nevertheless maintain his proportion of fence enclosing  
11 the general field. 1821, 44, § 9, 12.

SECT. 16. Upon the application of any two or more of the  
2 said proprietors, to any justice of the peace, for the county,  
3 where such land lies, he shall issue his warrant to one of the  
4 applicants, or to the clerk of the proprietors, requiring him to  
5 call a meeting of the proprietors, and expressing in the warrant,  
6 the time, place and purpose of the meeting. 1821, 44, § 13.

SECT. 17. Notice of the meeting shall be served at least four-  
2 teen days, previous to the time appointed, when all the propri-  
3 etors reside in the town or plantation where the land lies, by  
4 reading the warrant to each proprietor, or giving to him in hand  
5 or by leaving a copy at his usual place of abode, if the propri-  
6 etors of said land have not been previously organized for the  
7 aforesaid purpose, or if no other mode of notice has been fixed  
8 by their standing rules; and in such case should one or more  
9 of the proprietors reside without the town or plantation, notice  
10 shall be given to such person by publishing a copy of said war-  
11 rant in some newspaper printed in the county, or in any paper  
12 specially designated to publish the laws of the State, three  
13 weeks successively, the last publication to be at least fourteen  
14 days before the time appointed. When the standing rules of  
15 the proprietors, determine the mode of serving notices, for their  
16 meetings, that mode may be observed in service of said warrant,  
17 at the election of the party serving the same. 1821, 44, § 13.

SECT. 18. At all meetings of the said proprietors, each one  
2 may vote according to the relative amount or value of his inter-  
3 est, when known; when not known they shall all vote equally,  
4 and absent proprietors may vote by proxy authorized in writing.  
1821, 44, § 21. M. R. S. 23.

SECT. 19. The proprietors may raise money from time to  
2 time, for defraying their common charges, and for managing  
3 their affairs; which money shall be assessed upon the several  
4 proprietors, in proportion to their respective interests by the  
5 assessors hereinafter provided for. Any person aggrieved by  
6 such assessment may apply to the county commissioners who  
7 may abate his part of the same, in whole or in part, if they see  
8 cause. 1821, 44, § 14. M. R. S. 25.

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

1821, 44, § 14. M. R. S. 24.

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.

1821, 44, § 14. M. R. S. 26.

SECT. 22. The whole fence enclosing 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 culti-  
4 vated, or otherwise used by each one; and the part, to be main-  
5 tained by each proprietor, shall be set out and assigned to him,  
6 by any two or more fence viewers of the town, unless the pro-  
7 prietors 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. 1821, 44, § 9. M. R. S. 28.

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 pro-  
4 prietors, he shall not be required to maintain any part of the  
5 fence, nor to pay any tax or assessment on account of his land  
6 so long as he shall neglect to cultivate or use it as aforesaid.

M. R. S. 29.

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  
4 be borne by all the proprietors who are liable to be taxed in  
5 proportion to their respective interests; and the part assigned  
6 to each proprietor shall be made and maintained by himself, so  
7 long as he shall use his part of the said general field for pastur-  
8 ing, planting, mowing or otherwise.

1821, 44, § 9. M. R. S. 30.

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 costs of the repairs,  
8 and make a statement thereof, and of the amount of their fees,  
9 in writing under their hands. 1821, 44, § 10. M. R. S. 31.

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. 1821, 44, § 10. M. R. S. 32.

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 the  
9 costs of the repairs and fees in the same manner as is provided  
10 in the preceding section. 1821, 44, § 11. M. R. S. 33.

SECT. 28. The proprietors may choose one or more field  
2 drivers, who shall have and exercise the same powers with respect  
3 to the general fields, as are exercised by field drivers, chosen by  
4 a town. 1821, 44, § 15.

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.  
1821, 44, § 16.

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 enclosed and used separately.  
4 When damage happens to any proprietor in such common field,  
5 through the insufficiency of the fence of a co-proprietor, the  
6 owner or occupant of the land, to which such insufficient fence  
7 belongs, shall be liable to answer and make good all such dam-  
8 age. 1821, 44, § 17. M. R. S. § 17.

SECT. 31. Every proprietor of land lying unfenced in a general  
2 field, shall, once in every two years if requested by the owner  
3 of the adjoining land, run lines with such owner between their  
4 lots by sufficient mete stones at their joint expense; and if he  
5 shall fail so to do, after at least six days notice by the adjoining  
6 owner, he shall forfeit two dollars to be recovered by such  
7 adjoining owner to his own use, in an action on the case.

1821, 44, § 18.

SECT. 32. A major part in interest in any common or general  
2 field occupied under the provisions of this chapter, at any legal  
3 meeting called for the purpose, may discontinue their association;  
4 said discontinuance not to take effect until six months after the  
5 vote for that purpose unless all the proprietors consent to some  
6 earlier period. 1821, 44, § 19.

SECT. 33. Nothing contained in this chapter shall prevent the  
2 proprietors of any such common field fenced, and 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. 1821, 44, § 20.

SECT. 34. Portions of common fields enclosed 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 tenth, or for apportionments of fence, under section twenty-  
6 second of this chapter. 1821, 44, § 23.

SECT. 35. Any three or more proprietors of lots, in a general  
2 field lying within one general fence or enclosure; 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 lots  
6 in said field, divided from the remainder of the field, in order to  
7 be enclosed in one common fence and to be occupied by them  
8 as an entire field, separately from the other proprietors of the  
9 general field; and if the majority of the proprietors, in interest,  
10 who may be present at such meeting, shall withhold, or refuse  
11 their assent to such division, the county commissioners may  
12 upon the like application, appoint three or five disinterested and  
13 suitable persons, within the county, where such general field is  
14 situated, to be a committee to make such division thereof, if the  
15 said committee shall deem it expedient, and to assign to each  
16 field, its proportion of the partition fence, which shall become  
17 necessary by reason of such division, to be kept up and main-  
18 tained by the proprietors of said general fields respectively; and  
19 the said committee shall, as soon as may be, after their appoint-  
20 ment, make return of their doings under their hands to the said  
21 county commissioners; and after the acceptance thereof by said  
22 commissioners, the fields so divided, shall be deemed separate  
23 general fields, and the proprietors of the field so set off, and the  
24 remaining proprietors of the original, respectively, shall be  
25 distinct and separate proprietary bodies, having all the like  
26 powers and privileges, and subject to all the duties and liabilities,  
27 as the proprietors of the original general field before such division  
28 was made; provided that no order for such division shall be made,  
29 nor any committee appointed, as aforesaid, until the other pro-  
30 prietors shall have had notice of the petition for such division;  
31 which notice shall be given by serving the clerk of the propri-  
32 etors with a copy of the petition, thirty days at least, before such  
33 order, or appointment shall be made.

1821, 44, § 24. M. R. S. § 43.

SECT. 36. When the major part, in interest, of the proprie-  
2 tors of any tract of land, consisting of five or more allotments,  
3 shall be desirous of enclosing them in one general field, they  
4 may apply to the district court in the county where such land  
5 lies, 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 enclosed.

1821, 44, § 25.

SECT. 37. After a common or general field shall be so estab-  
2 lished by order of court, the further proceedings in relation  
3 thereto shall be the same, as are provided, when a field is so

4 enclosed by the consent of all the proprietors; and the propri-  
 5 etors shall be entitled to all the privileges, and subject to all  
 6 the duties, before provided in this chapter, with respect to the  
 7 proprietors of fields, enclosed by consent. 1821, 44, § 25.

SECT. 38. The inhabitants of every town shall at their annual  
 2 meeting, choose two or more suitable persons therein, to be  
 3 fence viewers, as provided in chapter fifth. 1821, 44, § 1.

SECT. 39. Any fence viewer, duly chosen and sworn, who  
 2 shall when requested, unseasonably neglect to view any fence  
 3 or to perform any other duties required of him in this chapter,  
 4 shall forfeit three dollars to whomever shall sue for the same  
 5 within forty days after such neglect. He shall also be liable for  
 6 all damages to the party injured. 1821, 44, 8.

SECT. 40. 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 view-  
 5 ers shall be entitled to recover double the amount in an action  
 6 on the case and they may be mutually witnesses for or against  
 7 each other.

## CHAPTER 30.

### OF POUNDS AND IMPOUNDING BEASTS.

- Sect. 1. Each town to keep a pound.  
 2. Penalty for neglect.  
 3. Cattle, &c. going at large, &c. penalty.  
 4. Ungelded horses, &c. penalty.  
 5. Towns may permit certain beasts to go at large.  
 6. Persons injured may sue for damages or distrain.  
 7. Pound keeper must be chosen annually.  
 8. He must keep a book of entries, &c.  
 9. He shall keep the beasts impounded, &c.  
 10. Impounder to give pound keeper a description, &c.  
 11. And also a statement and demand of damages.  
 12. If claimant object to damages—and proceedings.  
 13. If beasts are taken up in highway, &c.—and proceedings.  
 14. If possessor of such beast shall not deliver him to pound keeper in ten days—what proceedings.  
 15. Duty of pound keeper, when he receives beasts.  
 16. If owner does not, damages and proceedings.  
 17. Court may decree a sale of beasts, and issue a precept—and proceedings under it.  
 18. Disposition to be made of proceeds of sale.  
 19. Beasts may be redeemed, &c. &c.  
 20. How action of replevin shall be brought.  
 21. Same subject.  
 22. Rescue, and punishment of it.  
 23. Pound breach—and punishment.  
 24. Masters and parents liable for wards and minors.

Sect. 25. What defence impounder can make.

26. Forfeitures, how recovered.

27. Pound keeper's fees.

28. Compensation to impounder.

29. Expense for keeping beasts.

SECT. 1. Each town shall constantly keep and maintain in  
2 such places therein, as the inhabitants thereof shall direct, one  
3 or more sufficient pounds for the reception of such beasts, as may  
4 be by law liable to be impounded. 1834, 137, § 1.

SECT. 2. Every town that shall neglect for six months to pro-  
2 vide and maintain such pound, shall forfeit a sum not less than  
3 fifty dollars, to be recovered by indictment before the district  
4 court, and to be expended by an agent to be appointed by said  
5 court, for the use of said town, to build or maintain such pound  
6 or pounds. 1834, 137, § 1.

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 com-  
4 mons of the town, the owner thereof shall forfeit seventy-five  
5 cents for every horse, horse kind, ass or mule; twenty-five cents  
6 for every swine, goat or neat beast; and ten cents for every  
7 sheep, recoverable by action of debt, as hereinafter provided; or  
8 the same beasts may be impounded in any pound of the town,  
9 till the forfeiture aforesaid, with the charges of impounding and  
10 keeping such beasts and all fees, shall be paid by the owner and  
11 claimant. 1834, 137, § 2.

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 owners 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. 1834, 137, § 2.

SECT. 5. Any town, notwithstanding the provisions of the  
2 third and fourth sections of this chapter, may by vote thereof at  
3 the annual meeting permit cows and any other particular descrip-  
4 tion of neat beasts to go at large within such town or any  
5 specified part thereof at any or all times within one year from  
6 the meeting. 1834, 137, § 2.

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; pro-  
7 vided that if the beasts shall have been lawfully on the adjoining  
8 lands, and shall have escaped therefrom in consequence of the  
9 neglect of the person, who had suffered the damage, to maintain  
10 his part of the partition fence, the owner of the beasts shall not  
11 be liable for such damage.

1834, 137, § 3. 1821, 44, § 22. Mass. Rep. 113, § 4.

SECT. 7. There shall be annually chosen in every town a suitable person to keep each pound therein, and he shall be sworn to a faithful discharge of his trust. 1834, 137, § 4.

SECT. 8. Said pound keeper shall keep a book, wherein he shall record, at length, the certificates he shall receive from persons committing beasts to the pound or finding stray beasts, and a single copy of all advertisements by him posted, or published, and shall note therein the time when a beast was impounded, and when and by whom the same was taken away, which book shall be legal evidence of the doings aforesaid, thus recorded and noted, and shall be transmitted to his successor in office. 1834, 137, § 4.

SECT. 9. It shall be the duty of the poundkeeper to restrain the beasts impounded in the town pound or such other place after the first day as shall be more for the comfort of the beasts, or more convenient for *their* safety and for giving *them* food and drink, which shall be furnished *them* at the expense of the impounder. Unless payment be made in advance or sufficient security for the same tendered, the pound keeper shall not be obliged to receive such beasts into pound. 1834, 137, § 4.

SECT. 10. Before the pound keeper shall be required to receive any beast into pound, the impounder shall furnish the said pound keeper with a *certificate* under his hand, briefly describing the beast, the cause of impounding, the amount of damages or forfeiture claimed and charges of impounding then accrued, of the following purport.

To the pound keeper of ———

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

Witness my hand—A. B.

B. (date) 183 .

1834, 137, § 5.

SECT. 11. The pound keeper shall not be liable to any action for receiving or detaining any beast, so committed, till the several sums claimed by such certificate and all other due expenses and costs and fees shall have been paid to him, except under the provisions of the next section. 1834, 137, § 5.

SECT. 12. If the claimant of such beast object to the amount stated as damages, or if no claimant appear, the pound keeper shall within ten days and not afterwards issue a warrant under his hand to two disinterested persons of said county, to the following purport.

P. ss:—To E. F. and G. H. two disinterested persons of said county

Greeting.

You are hereby appointed to view and estimate upon oath, according to your best judgment the damages done to A. B. by 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 within  
12 twenty-four hours with your doings therein, first giving the said  
13 A. B. reasonable notice of the time when you will view the place  
14 where the damages were done. Given under my hand this —  
15 day of 183 . O. P. Pound keeper.

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

E. F. } Appraisers.  
G. H. }

B. (date) 183 .

22 And said persons being first sworn, shall give reasonable notice  
23 to the person impounding and the owner of such beast, if known  
24 and resident in the same town, of the time appointed for the  
25 view, and proceed to estimate damages accordingly, and make  
26 return to the pound keeper of their doings in writing under their  
27 hands—The oath may be administered either by said pound  
28 keeper, or a justice of the peace, and must be certified on the  
29 same warrant. 1834, 137, § 5.

SECT. 13. 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  
4 owner calls for the beast commit the same to a pound keeper  
5 of the same town, with a certificate, as described in the tenth  
6 section of this chapter; which beast the pound keeper shall  
7 carefully keep, till called for by the owner, and all due charges  
8 paid, or until the beast shall be disposed of as is hereinafter  
9 prescribed. 1834, 137, § 6.

SECT. 14. If the possessor of such stray beast shall not deliver  
2 the same to a pound keeper, with a certificate as aforesaid,  
3 within said ten days, he shall, for every week after the ten days  
4 aforesaid, lose expense of keeping and forfeit one per cent  
5 of the value of such stray beast, until he shall deliver the same  
6 to the pound keeper with such certificate, or until such forfeiture  
7 shall amount to the value of the beast. 1834, 137, § 6.

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

1834, 137, § 7.



SECT. 16. If the owner of such beast shall not within twenty days next after the posting or publishing such notice appear and claim the beast, and pay what is demandable under this chapter, including charges, fees and costs, then the pound keeper shall within the succeeding twenty days and not afterwards proceed to libel the same in the name of the impounder or finder in the manner directed in chapter one hundred and thirty-two, in which process the pound keeper may be a witness. 1834, 137, § 7.

SECT. 17. After due notice and examination the court or justice of the peace—having jurisdiction of the case may decree a sale of such beast, if they find that such beast has been lawfully impounded and detained; and may issue under the seal of the court, or of the said justice, a precept, in form following :

STATE OF MAINE.

P. ss. To the sheriff of our county of ——— or his deputy, or any constable of the several towns in the same county,

Greeting.

(Seal.) Whereas A. B. of ——— within the county of ——— through his agent O. P., pound keeper by the consideration of our justice court holden at ——— on ——— by ——— Esquire, a justice of the peace for said county, or (as the case may be) of our justices of our district court, holden at ——— on ——— within our county of ——— obtained a decree for the sale of the following (here insert a description of the property as in the libel) with costs taxed at ——— as to us appears of record, whereof execution remains to be done; We command you, therefore, to make sale of the same in manner prescribed by law for the sale of goods and chattels in satisfaction of executions; and after deducting your lawful fees, you will pay over the residue to the said pound keeper and take his receipt thereon for the same: Hereof fail not, and make due return, with your doings therein, within thirty days.

Witness ——— (close to be like that of other executions.) And the officer shall make sale of the property in the manner prescribed by law, for the sale of goods and chattels in satisfaction of executions and be entitled to like fees out of the proceeds of the sale; and shall pay over the residue to the pound keeper and take his receipt for the same. (He shall be required to make return of his doings to said court or justice in thirty days. The precept shall be similar in form to common executions or judgments, with such alterations as the nature of the case may require.) 1834, 137, § 7.

SECT. 18. The pound keeper shall retain the amount of his lawful charges and fees, and pay to others interested their lawful dues respectively. The balance he shall within thirty days pay over to the treasurer of the same county; which balance the latter or his successor shall pay over at any time within six years, to such one on his written request, as shall satisfactorily to him make out his right thereto, as having been the owner of the property before it was sold. In case of refusal on the part

9 of the treasurer to pay over the same to any claimant, he may  
10 appeal to the county commissioners whose decision thereon  
11 shall be final. If such balance remain in the treasury for six  
12 years, not claimed and paid over as aforesaid, it shall become  
13 absolutely the property of the county. 1834, 137, § 7.

SECT. 19. The owner of such beast may at any stage of the  
2 proceedings before a final decree for sale, as aforesaid, redeem  
3 the same on payment of all lawful claims and dues thereon, up  
4 to the time of his demand to redeem. 1834, 137, § 7.

SECT. 20. 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, the copy  
4 of the writ shall be served on the latter as also on the defend-  
5 ant. The process in other respects shall be regulated by the  
6 provisions of chapter 114, ———. And if the plaintiff in  
7 replevin be absent when the writ is sued out, it may be served,  
8 and his bondsmen in the replevin bond shall be held in the same  
9 manner as though he had himself signed and sealed it; and he  
10 may add his signature and seal before trial. 1834, 137, § 8.

SECT. 21. If the property shall be replevied, while the  
2 aforesaid process under the libel is pending, the latter shall be  
3 continued in court, till the action of replevin be decided; but no  
4 action of replevin shall be sustained, unless the writ be served  
5 before a decree is awarded on the libel. 1834, 137, § 8.

SECT. 22. Whoever, in order to prevent the impounding of  
2 any beast lawfully in possession of any person and taken for the  
3 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 in the case to pay to the party  
7 injured, the full damages with charges and costs, which he  
8 might have received by impounding the beast. 1834, 137, § 9.

SECT. 23. 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 offend-  
7 ing shall also be liable to pay the party injured on impounding  
8 said beast or beasts, double the damage or forfeitures, he may  
9 be entitled to by the impounding of such beast to be recovered  
10 in an action of the case. 1834, 137, § 10.

SECT. 24. When the rescue or pound breach mentioned in  
2 the twenty-third section of this chapter is affected by an appren-  
3 tice legally bound by deed or a minor, the party injured or  
4 impounder, may prosecute for damages or forfeitures, either the  
5 master of such apprentice, or the parent of said minor, under  
6 whose care he may then be, or the apprentice or minor at his  
7 election. 1834, 137, § 10.

SECT. 25. 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 have  
7 the advantage thereof in an action of replevin to be brought as  
8 provided in chapter one hundred and thirty. 1834, 137, § 10.

SECT. 26. All forfeitures mentioned in this chapter where no  
2 other mode of recovery is prescribed, shall be by action of debt  
3 to the use of the prosecutor. All civil actions for forfeitures  
4 mentioned in this chapter without other express limitation, shall  
5 be barred unless commenced within ninety days from the time  
6 the forfeitures accrued. 1834, 137, § 11.

SECT. 27. The fees which the pound keeper shall receive  
2 shall be twenty-five cents for impounding one or more beasts at  
3 one time; twelve cents and one half for recording each certifi-  
4 cate, or advertisement, and the same for each advertisement  
5 posted or published, with four cents a mile for his necessary  
6 travel. 1834, 137, § 12.

SECT. 28. 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  
5 the third section of this chapter, besides what forfeitures he  
6 may be entitled to under such section. 1834, 137, § 12.

SECT. 29. The price which the pound keeper shall be allowed  
2 for keeping and feeding the beasts committed to pound or to  
3 his custody for causes aforesaid, shall be prescribed by the  
4 selectmen of his town, and recorded on the town books by the  
5 town clerk, and be binding until altered by such selectmen, or  
6 their successors. 1834, 137, § 12.

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## CHAPTER 31.

### OF KEEPING WATCH AND WARD IN TOWNS AND OF DISOR- DERS IN STREETS AND PUBLIC PLACES.

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- Sect. 1. Who are liable.  
2. Selectmen and justices to order suitable watches, and the mode of pro-  
ceedings, &c.  
3. Constables charge and his duty—watches duty.  
4. Shall walk the rounds, &c.  
5. Constable's badge.  
6. Any *other* watch must be paid for by the town ordering it.  
7. When *such* watch is established, what proceedings are to be had.  
8. Penalties for neglect of duty by watch.  
9. Same for neglect of constable or officer of watch.  
10. Constables and watchmen to attend justices when walking the rounds.

OF DISORDERS IN STREETS AND PUBLIC PLACES.

- Sect.* 11. Riding with naked scythe—penalty.  
 12. Sundry disturbances in streets.  
 13. Bonfires, &c.—punishment.  
 14. Disposition of fines and penalties.  
 15. Masters and parents liable to fines for misconduct of their wards or minor children.

SECT. 1. Every male person of the age of eighteen years or  
 2 upwards, being able of body, or having estate sufficient to hire  
 3 a substitute, and not being a minister of the gospel, shall, when  
 4 duly warned, be liable to watch and ward in his town, either in  
 5 person or by a sufficient substitute; unless such person reside  
 6 more than two miles from the place, where the watch or ward  
 7 is kept. 1821, 125, § 1.

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 authority  
 4 to examine all persons whom they shall see walking abroad in  
 5 the night after ten o'clock, and whom they shall have reason to  
 6 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 offences. 1821, 125, § 2.

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. 1821, 125, § 2.

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. 1821, 125, § 2.

SECT. 6. When the inhabitants of any town shall determine  
 2 that a watch shall be kept in any other manner, than is provi-  
 3 ded in this chapter, the expense thereof shall be defrayed in like  
 4 manner as other town charges. 1829, 434, § 1, 3.

SECT. 7. Whenever any watch shall be established, accord-  
 2 ing to the provisions of the preceding section—the town shall  
 3 determine the number and qualifications of the persons to be  
 4 employed for that purpose and the selectmen shall appoint a  
 5 suitable person to be captain or officer of the watch; and every

6 watchman shall be equipped in such manner as the selectmen  
7 of the several towns shall determine; and the powers and duties  
8 of said officers and watchmen shall be the same, as are before  
9 prescribed in the case of a constable's watch.

1829, 434, 2, 4.

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 offence a sum not less  
7 than one, nor more than ten dollars to the use of the town.

1829, 435, § 5.

SECT. 9. If any constable or officer of the watch shall neg-  
2 lect or refuse to observe and execute the orders given him, he  
3 shall forfeit a sum not less than ten dollars to the use of the  
4 town.

1829, 435, § 5.

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.

1829, 435, § 6.

SECT. 11. If any person shall ride with a naked scythe shar-  
2 pened and hung in a sneath on the highways, or in any lanes,  
3 streets or alleys, he shall forfeit for each offence two dollars.

1821, 125, § 8.

SECT. 12. If any persons to the number of three or more, be-  
2 tween 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 dis-  
5 guised, 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.

1821, 125, § 9.

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 offence forfeit the sum of eight dollars, or be  
6 imprisoned for a term not exceeding one month.

1821, 125 § 10.

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

1821, 125, § 10.

SECT. 15. Masters shall be liable to pay the several fines men-  
2 tioned in this chapter for the offences of their servants or appren-

3 tices, if legally bound to them, at the election of the prose-  
 4 cutor, and parents shall be liable, at the like election for the  
 5 offences of the minor children, unless such children are bound  
 6 to other persons as servants or apprentices.

## CHAPTER 32.

### OF PAUPERS, THEIR SETTLEMENT AND SUPPORT.

- Sect.* 1. The manner in which settlements may be gained—nine different ways.  
 2. All settlements gained heretofore and by this act, to remain until lost by gaining others as before stated.  
 3. Settlements partially gained under the laws in force till this chapter shall become a law, may be perfected under the provisions of this chapter without any delay.  
 4. Each town bound to support the poor settled in such town, and choose overseers of poor.  
 5. Overseers shall have care of the poor.  
 6. Kindred of a poor person, if able are to support him.  
 7. The district court, on application, to decide on question of ability and adjudge.  
 8. Court may make assessments on kindred—mode.  
 9. Same subject.  
 10. How complaint, named in seventh section, to be filed and proceedings thereon.  
 11. New defendants may be notified, being kindred.  
 12. If complaint is not entered, or is withdrawn, respondent to have costs, court may take further order.  
 13. Overseers may bind out minor children of persons chargeable to town, &c. and manner of binding.  
 14. Form and substance of the indentures.  
 15. Duty of overseers as to treatment of bound children.  
 16. Complaints against master, how made, and prosecuted.  
 17. An apprentice discharged by court, may be bound anew.  
 18. Overseers may maintain action on the bond and recover damages, disposal of money, and may liberate the apprentice, if not done as before provided.  
 19. No action to abate by death of some of overseers, successors may prosecute.  
 20. Such apprentice after twenty-one years old may maintain an action against master, for causes not decided on by overseers, and mode of proceeding.  
 21. If apprentice or servant deserts his master's service, he may be arrested, and course of proceedings.  
 22. Persons enticing away apprentices—liable for damages.  
 23. The district court may discharge apprentices for gross misbehavior—after due notice.  
 24. Overseers may set to work or bind out for one year persons settled in their towns or having no settlement in the State, married or not—over age of twenty-one—and having no means of support.  
 25. Persons aggrieved by doings of overseers, may apply to the district court—proceedings thereon.  
 26. Persons standing in need of relief in any town to be under care of overseers, who may bind them and their children out, as though they were inhabitants and as stated in twenty-fourth section.

- Sect. 27. Overseers when they supply poor persons living in an unincorporated place, as stated in preceding section, the town supplying shall be reimbursed by the town where the poor persons are settled.
28. Any person keeping a house of ill-fame, may, on conviction, be sent to the house of correction.
29. Overseers shall provide immediate relief for persons falling into distress in their towns and proceedings thereupon to be had—to recover for advances.
30. A recovery in such action shall bar all future dispute as to question of settlement.
31. Overseers may set to work any debtor in prison, and chargeable to any town in State, so far as may be necessary for his support, and the town where he is settled shall pay balance of expense.
32. Any town having incurred expense in maintaining in jail any person as a pauper, committed on writ or execution may obtain repayment from creditor.
33. Such creditor may discharge such debtor from jail without releasing the debt, and may have a legal claim against his property—his body being discharged.
34. Prison keeper's compensation.
35. All persons chargeable or likely to be to a town in which they have no settlement, may be removed to their place of settlement—and mode of proceeding.
36. Costs awarded to prevailing party, except that in case of default, the town summoned shall not have costs.
37. Upon judgment of removal, justice may issue a warrant for the purpose.
38. Overseers of the town to which the person is removed, shall receive him, and justice may issue execution for damages and costs—proceedings thereon.
39. Either party, and the person ordered to be removed may appeal to the district court—and proceedings on appeal.
40. Overseers, if they please, may originally complain to the district court, —stating all the facts—and proceedings to be had on such complaints.
41. In such cases depositions may be used—process not to abate by the death of the person—final decision in such suit to be an estoppel as to question of settlement.
42. Overseers may previous to an application to a justice or to the district court, send a written notification to the town where his settlement is supposed to be, and requesting his removal.
43. Town sent to must remove the person, or send a written answer in two months, if not he may be removed—and manner of proceeding.
44. Written notice and answer may be sent by mail.
45. A person removed shall not return.
46. Overseers of any town shall relieve and support those found therein, having no settlement in State, when they are in need—at expense of their relatives, or else by town.
47. Overseers may convey by land or water any pauper to the place where he belongs in any other State or to house of correction.
48. Every town must pay expense incurred for relief of pauper, by any person, not himself liable, after notice and request to overseers.
49. Any poor in need, notoriously intemperate, may be sent to house of correction—form of proceedings.
50. Persons incurring expense for support of pauper, may recover the same of such pauper.
51. On death of a pauper then chargeable, overseers may take possession of his personal property, and sell it, if no administrator appointed.
52. In all cases under this law, overseers or their agent may appear—prosecute or defend for town.
53. Plantations may raise money for support of poor, the assessors to apply the same.
54. Penalty for leaving a poor and indigent person in any town, in which he has no settlement, knowing him to be such, with intent to charge such town with his support.

- Sect. 55.* No indenture of apprenticeship shall bind the minor after master's death—he may be bound again.
- 56.* Masters of vessels having passengers who have no settlement in the State, to leave a list of their names, &c. with overseers of town where they arrive—and proceedings to be had.
- 57.* Selectmen may dispense with such bond in certain cases and so forth.
- 58.* Towns accessible by water may appoint visiting officers, and duty of such officers, &c.
- 59.* Penalty on masters for landing passengers at a place to which they are not bound, with intent to avoid the provisions of this chapter.
- 60.* Provisions in this chapter applied to towns, shall be applicable to cities.

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

*First*—A married woman shall always follow and have the settlement of her husband, if he have any within this State; otherwise her own at the time of marriage, if she then had any shall not be lost or suspended by the marriage.

*Second*—Legitimate children shall follow and have the settlement of their father, if he have any within the State, until they gain a settlement of their own; but if he have none, they shall in like manner follow and have the settlement of their mother, if she have any.

*Third*—Illegitimate children shall follow and have the settlement of their mother, at the time of their birth—if any she then have within the State; but neither legitimate nor illegitimate children shall gain a settlement by birth in the places where they may be born, if neither their parents then have any settlement there.

*Fourth*—Any person that shall be admitted an inhabitant by any town, at any legal meeting, in the warrant for which an article shall be inserted for that purpose, shall thereby give a legal settlement therein.

*Fifth*—All persons dwelling and having their homes in any unincorporated place, at the time when the same shall be incorporated into a town shall thereby gain a legal settlement therein.

*Sixth*—Upon the division of any town, every person having a legal settlement therein, but being absent at the time of such division, and not having gained a legal settlement elsewhere, shall have his legal settlement in that town, wherein his “last” dwelling place shall happen to fall upon such division. When any new town shall be incorporated composed of a part of one or more old incorporated towns, every person legally settled in any town of which such new town is wholly or partly so composed (or who has begun to acquire a settlement therein) and who shall actually dwell and have his home within the bounds of such new town at the time of its incorporation, shall have the same rights in such new town, in relation to settlement whether



40 incipient or absolute, as he would otherwise have had in the old  
41 town where he dwelt.

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

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

52 *Ninth*—Any person resident in any town on the twenty-first  
53 day of March, in the year eighteen hundred and twenty-one,  
54 who had not within one year previous to that date received sup-  
55 port or supplies from some town as a pauper, shall be deemed to  
56 have a settlement in the town where he dwelt and had his home,  
57 unless he may have subsequently acquired some other settle-  
58 ment under laws existing for the time being. 1821, 122, § 2.

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 act shall remain until lost by gaining others  
4 in some of the modes herein before specified, and upon such  
5 new settlement being gained, all former ones shall be defeated  
6 and lost. 1821, 122, § 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 con-  
6 tinued in force. 1821, 122, § 2.

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 assis-  
4 tance; and may raise monies therefor, and for their employment,  
5 in the same way that monies for other town charges are raised.  
6 Towns may also at their annual meetings choose any number,  
7 not exceeding twelve suitable persons, dwelling therein, to be  
8 overseers of their poor, and where such are not specially chosen,  
9 the selectmen shall be overseers of the poor. 1821, 122, § 3.

SECT. 5 The overseers of the poor shall have the care and  
2 oversight of all such poor and indigent persons, as are chargea-  
3 ble to their respective towns, and shall see that they are suitably  
4 relieved, supported and employed, either in the work house or  
5 other tenements belonging to such towns, or in such other way  
6 such towns at a legal meeting may direct, or otherwise at the  
7 discretion of said overseers, and at the costs of such towns.

1821, 122, § 4.

SECT. 6. The kindred of any such poor persons, if any he  
2 have, in the line or degree of father or grandfather, mother or

3 grandmother, children or grandchildren, by consanguinity, liv-  
4 ing within this State of sufficient ability, shall be holden to  
5 support such pauper in proportion to such ability respectively.

1821, 122, § 5.

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

1821, 122, § 5.

SECT. 8. 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.

1821, 122, § 5.

SECT. 9. The said court may further order with whom of such  
2 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  
5 well as the convenience of the kindred.

1821, 122, § 5.

SECT. 10. The complaint provided for in the seventh section  
2 of this chapter shall be filed in the office of the clerk of the  
3 district court, who shall issue a summons thereon, requiring the  
4 kindred therein named to appear and answer thereto. The  
5 summons may be directed to any officer, qualified to serve  
6 other civil process between the same parties, and served as an  
7 original summons, fourteen days at least before the sitting of  
8 the court to which it is returnable.

1821, 122, § 5.

SECT. 11. 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.

1821, 122, § 5.

SECT. 12. If such complaint be not entered, or be discontin-  
2 ued, or withdrawn, or be adjudged groundless, the respondents  
3 shall recover costs. The said court may take further order from

4 time to time in the premises, upon application of any party  
5 interested ; and may alter such assessment, and apportionment,  
6 on due notice as circumstances may require. 1821, 122, § 5.

SECT. 13. 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 or  
6 are chargeable or not, or any who are themselves chargeable as  
7 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.

1821, 122, § 6.

SECT. 14. Provision shall be made in such deed or indentures,  
2 for the instructing of male children, so bound out, to read, write  
3 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.

1821, 122, § 6.

SECT. 15. It shall be the duty of said overseers to enquire into  
2 the treatment of such minor children who now are, or may be  
3 bound out by force of this chapter, and to protect and defend  
4 them in the enjoyment of their rights, as well in reference to  
5 their masters, as others.

1821, 122, § 7.

SECT. 16. Upon the complaint by said overseers made to the  
2 district court in the county where their town is, or where the  
3 master of the child bound out as aforesaid, may reside, against  
4 the master of any such child, for abuse, ill treatment or neglect,  
5 said court having duly notified the party complained of, may  
6 proceed to hear the complaint, and if the same be supported  
7 and the cause shall be judged sufficient, may discharge such  
8 child from his or her master, with costs for which execution may  
9 be awarded ; otherwise the complaint shall be dismissed, but  
10 with or without costs for the respondents at the discretion of the  
11 court, as the complainants may appear to be justified by proba-  
12 ble cause or not.

1821, 122 § 7.

SECT. 17. 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.

1821, 122, § 7.

SECT. 18. 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 of

9 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  
12 not already done by the process herein before provided.

1821, 122, § 7.

SECT. 19. No action, brought by overseers as aforesaid shall  
2 abate by the death of some of them, or by their being suc-  
3 ceeded in office, pending the action, but it shall proceed in the  
4 name of the original plaintiffs or the survivors of them.

1821, 122, § 7.

SECT. 20. 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 shall  
8 be entitled to the custody and use of the said deed or indentures,  
9 or a copy as the circumstances of the case may require, and to  
10 bring the action in his own name, as assignee of the instrument,  
11 and no endorsement shall be necessary by the overseers.

1821, 122, § 7.

SECT. 21. 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 behalf,  
6 may issue his warrant to apprehend the apprentice or servant,  
7 and bring him before the said justice; and if the complaint  
8 shall be supported, the justice may order the offender to be  
9 returned to his master, though he may reside in another county,  
10 or may commit him to the common jail or house of correction,  
11 there to remain for a term not exceeding twenty days, unless  
12 sooner discharged by his master.

1821, 122, § 7.

SECT. 22. 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.

1824, 122, § 7.

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

1824, 122, § 7.

SECT. 24. Said overseers shall have power to set to work or  
2 bind out to service by deed for a term not exceeding one year  
3 at a time, all such persons residing and lawfully settled in their  
4 respective towns, or who have no such settlement in this State,  
5 married or unmarried, upwards of twenty-one years of age as

6 are able of body, but have no apparent means of support, and  
7 who live idly, and all persons, who are liable by any law to be  
8 sent to the house of correction upon any reasonable terms and  
9 conditions. 1824, 122, § 8.

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

1824, 122, § 8.

SECT. 26. All persons standing in need of relief living with-  
2 out the bounds of any incorporated town, shall be under the  
3 care of the overseers of the poor appointed in the adjoining  
4 town wherein the inhabitants of such unincorporated place are  
5 liable to be taxed; and the said overseers may bind out the  
6 children of such poor persons, as if they were inhabitants of the  
7 town in which such overseers are appointed, and may set to  
8 work and bind out, in the manner described in the twenty-  
9 fourth section of this chapter, persons of like description dwell-  
10 ing in such unincorporated place, as if in their own towns;  
11 such persons to be entitled also to similar remedy and relief, if  
12 aggrieved thereby.

1824, 122, § 9.

SECT. 27. 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 settle-  
6 ment, in the same manner as if such persons had been residents  
7 of their town.

1837, 297.

SECT. 28. Any person duly convicted of keeping a house of  
2 ill fame, before any justice of the peace or district court, may be  
3 ordered to the house of correction, either of their own town or  
4 county, or to the county jail, for a term not exceeding one  
5 month; and it shall be the duty of the overseers of the poor in  
6 their respective towns to prosecute all those, whom they may have  
7 good cause to suspect of being thus guilty. Any person thus  
8 convicted, shall not be allowed to keep lodgers or boarders in  
9 any town, without license of the overseers thereof.

1821, 122, § 10.

SECT. 29. 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 dis-  
5 tress and stand in need of immediate relief, and until they shall  
6 be removed to the places of their lawful settlements; the  
7 expenses whereof incurred within three months next before notice

8 given to the town to be charged, as also of their removal, or of  
9 their burial, in case of their decease, may be sued for and recov-  
10 ered, by the town incurring the same against the town, which is  
11 liable therefor in an action at law; provided, that such action  
12 for damages to be instituted within two years after the cause of  
13 action shall have arisen, but not otherwise. 1821, 122, § 11.

SECT. 30. A recovery in such action shall bar the town against  
2 which it shall be had, from disputing the settlement of such  
3 pauper with the town so recovering in any future action brought  
4 for the support of such pauper. 1821, 122, § 11.

SECT. 31. The overseers of the poor in any town, in which  
2 there is a county jail, are hereby authorized and directed at their  
3 discretion, by their order in writing to set to work under them-  
4 selves or others any debtor committed to prison upon mense  
5 process or execution, and actually chargeable to any town in this  
6 State for his support, so far as may be necessary for his support  
7 and no further. The town chargeable for the maintenance of  
8 such debtor shall be liable only for the deficiency of his earnings  
9 to pay the expenses of his support, whilst such order remains in  
10 force. 1821, 122, § 12.

SECT. 32. 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 same 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.  
1821, 122, § 12.

SECT. 33. 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 support  
6 of the debtor under imprisonment, shall be and remain a legal  
7 claim against the goods and estate of the debtor; his body  
8 being forever thereafter exempted from arrest therefor.  
1821, 122, § 13.

SECT. 34. The keeper of any prison shall be entitled to receive  
2 after the rate of one dollar and twenty-five cents per week, and  
3 no more, for the entire support of each debtor, being a pauper  
4 in close confinement under his care. 1821, 122, § 14.

SECT. 35. All persons actually chargeable, or who through  
2 age or infirmity, idleness or dissoluteness, are likely to become  
3 chargeable to the places, wherein they are found, but in which  
4 they have no lawful settlement, may be removed to the places of  
5 their lawful settlements, if they have any within the State. In  
6 order to effect such removal, and also to receive the expenses  
7 incurred for the relief of such persons, if the overseers of the  
8 town, where such persons are found, choose that mode in prefer-  
9 ence to a civil action, said overseers may apply by complaint

10 to any justice of the peace in their county, not an inhabitant of  
11 their town; and the said justice is authorized to issue his sum-  
12 mons to be served as other civil processes may be, upon the  
13 inhabitants of the town, where said person's settlement is  
14 alleged to be, and also upon the party whose removal is contem-  
15 plated, and such witnesses as he may see fit. The said justice  
16 may examine the said party to be renewed under oath—and may  
17 compel his attendance for that purpose by warrant, if he see  
18 cause. He shall hear his objections to such removal and for  
19 good cause may continue the process once or more times not  
20 exceeding three months in all, and after due examination and  
21 hearing, whether the town summoned appears or not, shall pro-  
22 ceed to give judgment for or against the complainants, and  
23 make a record thereof. 1821, 122, § 15.

SECT. 36. 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 determination of the justice, as to the town where the  
5 party intended to be removed, has his legal settlement, as to his  
6 removal, and whether for being actually chargeable, or only  
7 likely to become so, and the damages for expenses incurred by  
8 said town making complaint, and the estimated expenses of  
9 removal, if such removal shall be ordered, in addition to the  
10 costs above mentioned. 1821, 122, § 15.

SECT. 37. Upon judgment of removal, said justice within  
2 three months, and not afterward, may issue his warrant of  
3 removal directed to the sheriff of the county or his deputy, the  
4 constable of the town where such person is to be removed, or  
5 to 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. 1821, 122, § 15.

SECT. 38. Such overseers shall be obliged to receive and  
2 provide for such person accordingly. Said justice may also  
3 award execution, as in other cases for the aforesaid damages,  
4 costs and estimated expenses of removal, and the execution may  
5 be directed to, and served by any officer in the county, where  
6 the town is, against which it issues, qualified to serve execu-  
7 tions in civil actions. 1821, 122, § 15.

SECT. 39. Either party including the person ordered to be  
2 removed, aggrieved by the judgment aforesaid, may appeal to  
3 the next district court for the same county, which court shall  
4 have appellate jurisdiction of the case, and hear and decide the  
5 same without a jury, unless either party require one, provided  
6 that the person to be removed may be required to enter into re-  
7 cognizance to prosecute his appeal with effect, and other purposes  
8 as is provided in civil actions. If the appeal be not entered,  
9 said court may on complaint of the party prevailing before the

10 said justice of the peace affirm the said judgment with addi-  
11 tional damages, if any have intervened, and costs.

1821, 122, § 15.

SECT. 40. Said overseers may at their election file their com-  
2 plaint originally in the district court, held in the county where  
3 they reside, setting forth the facts of the case, and cause the  
4 adverse party to be summoned, in time and manner as aforesaid  
5 and also the person to be removed, and such court shall hear  
6 and decide the cause without a jury unless either party require  
7 one, and grant a warrant and execution in the same manner as  
8 in case coming before them by appeal; and in all their adjudi-  
9 cations in the premises they shall state the facts on which their  
10 judgment is founded, and if any error in law exists, either party  
11 may cause the same to be corrected, on error in the supreme  
12 judicial court, if the writ of error be sued out in one year after  
13 such judgment was rendered. If such should be affirmed the  
14 defendant in error shall recover his costs, if reversed, the plain-  
15 tiffs shall be restored to all they have lost, with costs—and the  
16 supreme judicial court may require of the district court to state  
17 any material facts omitted or explain such as do not appear to  
18 be clearly stated, unless a new statement be agreed by the par-  
19 ties.

1821, 122, § 16.

SECT. 41. In all cases of complaint as provided for in the  
2 thirty-fifth, and fortieth sections of this chapter, whether before  
3 a justice of the peace, or the district court, depositions may be  
4 used for any cause authorized in other civil actions, and the  
5 process shall not abate, so far as respects the damages and costs,  
6 by the decease of the person whose removal was applied for,  
7 pending the suit. A final decision on the question of settle-  
8 ment on any such complaint, shall estop the party against whom  
9 the decision is made, to contest the settlement of such person  
10 in any future suit of whatever nature between the same towns.

1821, 122 § 17, 11.

SECT. 42. The said overseers may in cases if they judge it expe-  
2 dient previous to any such application to a justice of the peace  
3 or the district court send a *written notification*, stating the facts  
4 relating to any person actually become chargeable to their town,  
5 to one or more overseers of the place, where his settlement is  
6 supposed to be, and requesting them to remove him, which they  
7 may do, by a written order, directed to any person therein  
8 designated, who is hereby authorized to execute the same.

1821, 122, § 17.

SECT. 43. 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, request-  
6 ing such removal, and if they shall fail so to do, the overseers  
7 who 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 hereby  
 10 authorized to execute the same; and the overseers of the town  
 11 to which the pauper is so sent, shall be obliged to receive and  
 12 provide for him, and their town shall be liable for the expenses  
 13 of his support and removal, to be recovered by an action by the  
 14 town incurring the same, and shall be barred from contesting  
 15 the question of settlement, with the plaintiffs in such action.

1821, 122, § 17.

SECT. 44. If the written notice or answer thereto provided  
 2 for in the twenty-ninth and forty-third sections of this chapter  
 3 shall be sent by mail and shall arrive at the post office in the  
 4 town, where the overseers of the poor of the town, to whom  
 5 such notice or answer may be directed, shall reside, it shall be  
 6 deemed equivalent to an actual delivery of such notice or answer  
 7 to such overseers.

1835, 149.

SECT. 45. 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, he shall  
 5 be 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.

1821, 122, § 17.

SECT. 46. 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  
 9 town treasuries.

1821, 122, § 18.

SECT. 47. 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 in  
 9 the house of correction or work house, at the expense of the  
 10 town.

1821, 122, § 18.

SECT. 48. Every town shall be held to pay any expense which  
 2 may be necessarily incurred, for the relief of a pauper by any  
 3 person who is not liable by law for his support, after notice and  
 4 request made to the overseers of the said town, and until pro-  
 5 vision shall be made by them.

1821, 122, § 18.

SECT. 49. 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 in  
10 which he has a settlement, and when not having any such set-  
11 tlement, in this State, at the expense of the county, till dis-  
12 charged by the overseers of the town in which such house of  
13 correction is situated, or by two justices of the peace—*quorum*  
14 *unus*. 1821, 122, 18.

SECT. 50. 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.

1821, 122, § 19.

SECT. 51. Upon the death of any pauper who at the time of  
2 his decease shall be actually chargeable to any town, the over-  
3 seers of the poor of such town may take into their possession all  
4 the personal property of such pauper. If no administration shall  
5 be taken upon the estate of such pauper within thirty days after  
6 his decease, said overseers may sell so much of such property as  
7 may be necessary to repay the expenses incurred for such pau-  
8 per. If any part of such property shall be withheld from said  
9 overseers they shall have the same remedy for the recovery of  
10 such property, or the value thereof, as an administrator of said  
11 pauper might have in like case. 1821, 122, § 20.

SECT. 52. In all actions and prosecutions by complaint under  
2 the provisions of this chapter, for or against any town or against  
3 any individual, the overseers of the poor of any town becoming  
4 a party, or any person in writing under their hands appointed,  
5 may appear and prosecute or defend the same to final judgment  
6 and execution, in behalf of such town. 1821, 122, § 21.

SECT. 53. 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. 1821, 122, § 23.

SECT. 54. If any person shall bring into and leave any poor  
2 and indigent person in any town in this State wherein such  
3 pauper is not legally settled, knowing him to be poor and indi-  
4 gent, and with intent to charge such town with his support, he  
5 shall forfeit a sum not exceeding sixty dollars for every such  
6 pauper to be sued for, and received by and to the use of such  
7 town, by action of debt, in any court, proper to try the same.

1821, 122, § 22.

SECT. 55. No indenture of apprenticeship or service made in  
2 pursuance of this chapter shall bind the minor after the death  
3 of his master or mistress, but the apprenticeship or service shall  
4 from thenceforth be discharged, and the minor may be bound  
5 out anew.

SECT. 56. When any ship or vessel having any passengers on  
2 board, who have no settlement within this State, shall arrive at

3 any port or harbor, within the State, the master of ship or vessel  
4 before such passengers come on shore, shall leave a list of their  
5 names, and the places where said passengers first embarked on  
6 board such ship or vessel, with the overseers of the poor, where  
7 such passengers shall arrive. The master of such ship or vessel  
8 shall not land any such persons without the permission of the  
9 selectmen, unless he shall have entered into bond to such town,  
10 with sufficient sureties to the satisfaction of said selectmen, in  
11 a sum, not exceeding five hundred dollars for each passenger to  
12 save harmless such town, and all other towns within the State,  
13 from all manner of charge and expense which may arise from  
14 such passengers as paupers for and during the term of three  
15 years. For any neglect of the provisions of this section, said  
16 master shall forfeit and pay two hundred dollars for each passen-  
17 ger so coming on shore, or landed to be recovered by action of  
18 debt, by any person who shall sue for the same, one moiety  
19 thereof to the use of the State, and the other moiety to the  
20 prosecutor. And any justice of the peace in the county where  
21 such ship or vessel shall arrive as aforesaid, on complaint made  
22 to him by a majority of the overseers of the poor of the city or  
23 town where the vessel arrived, that the master thereof has not  
24 complied with the foregoing provisions of this section, shall  
25 issue to the sheriff of said county or any of his deputies or con-  
26 stable of said town, requiring them to attach and detain such  
27 ship or vessel until said penalty shall be paid by said master;  
28 but if not paid within twenty days, then the officer having the  
29 warrant, shall sell said vessel at auction, after posting public  
30 notice of the sale in said town four days before hand and after  
31 deducting from the

1821, 123.

SECT. 57. The selectmen of the several towns of this State  
2 may at their election dispense with the bond required by the  
3 section last preceding, if the master or owner of the ship or  
4 vessel, in which any such passengers may arrive, as aforesaid,  
5 shall before the landing of such passenger pay into the treasury  
6 of the town, at which such ship or vessel shall arrive, such sum  
7 as said selectmen shall think reasonable, not exceeding five  
8 dollars for every such passenger, whom he may intend to land;  
9 to be appropriated as such town may direct for the support of  
10 paupers. 1838, 339, § 1.

SECT. 58. Any town accessible by ships or vessels, shall have  
2 power to appoint one or more visiting officers, whose duty it  
3 shall be, on the arrival of any ship or vessel having on board one  
4 or more such passengers, to go and board such ship or vessel,  
5 and there remain until the provisions of the fifty-sixth and fifty-  
6 seventh sections of this chapter shall be complied with. It shall  
7 be the duty of such visiting officers, or either of them, to prevent  
8 the landing of any such passenger against the provisions of said  
9 sections. In case of the violation of said provisions, or an inten-  
10 tion to violate, suspected by them, it shall be the duty of such  
11 officers to give information to the selectmen of their town. A

12 reasonable compensation shall be paid to any such officer, by the  
 13 master or owner of such ship or vessel to be fixed by the select-  
 14 men. 1838, 339, § 2.

SECT. 59. 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 fifty-sixth section of this chapter.

1838, 339, § 3.

SECT. 60. Every thing prescribed in this chapter in relation  
 2 to towns shall also be applicable to any city in this State; and  
 3 in relation to the selectmen of any town, to the mayor and  
 4 aldermen of any city; and in relation to the overseers of the  
 5 poor of any town, to the overseers of the poor of any city or to  
 6 such other officers as have the care and charge of the poor in  
 7 said city.

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## NOTES.

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SECT. 20. In the latter part of this section a provision is introduced for the purpose of protecting the overseers against the costs of an unsuccessful suit brought by the apprentice or servant.

SECT. 35, 36, 37. It is thought by the commissioners that the forms prescribed in the statute of 1821, ch. 122, § 15, may be omitted in this revision, the process being used but very little, if at all, not being of a nature to require much explanation. No objection however, except the space occupied, offers itself to the forms, and should it be thought better to retain them, they may easily be brought back from the original act.

It may be worthy the consideration of the Legislature whether the mode of proceeding pointed out in the 35, 36, 37 and 38 sections, and that pointed out in the 40th, should also be retained; both seems needless, as both have the same object.

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## CHAPTER 33.

### OF ENGINES, ENGINE MEN, AND FIRES.

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- Sect.* 1. Number of engine men which selectmen of a town may appoint.  
 2. Such persons exempted from military duty.  
 3. Shall hold their office during pleasure of selectmen.  
 4. In cities, towns, &c. officers appointed under special laws shall have same power as to pulling down buildings, &c. as other firemen in the State possess.

- Sect.* 5. Officers appointed under first section may establish by-laws and regulations.
6. Companies of engine men, so appointed shall meet monthly, &c.
7. Negligent in their duty, may be discharged.
8. Selectmen may appoint from the engine men, a number of men to attend with axes, ladders, &c.
9. Each town may elect firewards, &c.
10. Their duty on alarm of fires and at fires.
11. In their absence, major part of selectmen to act.
12. In their absence, civil and military officers may act.
13. Firewards' power during fires.
14. Penalty for refusing obedience.
15. When buildings are pulled down, &c. compensation to be made to owners, in case, &c.
16. Persons dissatisfied, may apply to county commissioners.
17. No compensation to be made in certain cases.
18. Penalty for plundering, &c. at fires.
19. Certain buildings not to be occupied in towns for certain purposes—except in licensed places.
20. Penalty for keeper of livery stable violating such rules.
21. Penalties how appropriated.
22. Persons attached to engines, not liable to serve as jurors except, &c.
23. Restrictions to the foregoing powers, in their application.

SECT. 1. Whenever any town, corporation or individuals,  
 2 shall possess and keep for public use any fire engine, the select-  
 3 men of the town in which the same is kept are empowered to  
 4 appoint any number of suitable persons they may deem neces-  
 5 sary, not exceeding sixty, to each engine, having a suction hose,  
 6 and not exceeding thirty-five, if without a suction hose, to be  
 7 engine men. 1831, 506.

SECT. 2. The engine men so appointed, shall be exempted  
 2 from all military duty, except that of being detached or called  
 3 out to execute the laws, to suppress rebellion or repel invasion;  
 4 provided that every person claiming such exemption, shall first  
 5 produce to the commanding officer of the company to which he  
 6 belongs, on or before the second Tuesday of April annually, the  
 7 certificate of the selectmen that he has been duly appointed an  
 8 engine man, and that he faithfully performs his duties as such.  
 1831, 506.

SECT. 3. Such engine men shall continue in office during  
 2 the pleasure of the selectmen; and they are hereby authorized  
 3 to meet annually in the month of April, May, August, October  
 4 and November and at the May meeting to elect a master and  
 5 director or directors, clerk, assistant clerk, and such other offi-  
 6 cers of the company as shall be deemed necessary to give  
 7 efficiency to their operations. 1821, 132, § 1. 1830, 473.

SECT. 4. The chief engineer, engineers and firewards and  
 2 other officers, appointed for particular cities, towns or districts  
 3 under the provisions of special laws, shall have the same power  
 4 as to pulling down or demolishing any house or building to  
 5 prevent the spreading of fires, and as to other things affecting  
 6 the extinguishment thereof, as firewards now have by the laws

7 now in force in this State, and the city or town to which they  
8 belong, shall be liable to pay such compensation for damages  
9 consequent upon the acts of the chief engineer, engineers and  
10 firewards, and other officers as other towns are liable to pay for  
11 similar damages, and the members of the fire department in such  
12 towns, cities or district, shall enjoy all the privileges, and be  
13 liable to all the duties of other firemen in the State.

1831, Special Act, ch. 134.

SECT. 5. The engine men appointed under the authority given  
2 in the first section, may establish such rules and regulations  
3 respecting their duty as shall be approved by the select-  
4 men and not be repugnant to the laws of the State, and annex  
5 penalties to be recovered by their clerk but no penalty for any  
6 one offence shall exceed six dollars.

1821, 132, § 1.

SECT. 6. The companies of engine men, appointed as afore-  
2 said, shall be bound to meet once every month, and oftener if  
3 necessary for the purpose of examining the state of the engines  
4 to which they belong, and the appendages of the same; and it  
5 shall be their duty, by night or by day, under the direction of  
6 the firewards of the town, to use their best endeavors to extin-  
7 guish any fire in the same or the immediate vicinity thereof,  
8 that shall come to their knowledge without delay.

1821, 132, § 1.

SECT. 7. When any engine man or any member of either of  
2 the companies mentioned in the fourth section shall be remiss  
3 or negligent in the discharge of his duties, in the opinion of the  
4 selectmen, it shall be their duty, on proof thereof to discharge  
5 him from the said company, and appoint some other person in  
6 his stead.

1821, 132, § 4.

SECT. 8. The selectmen of any town may, in their discretion  
2 select from the engine men any number for each engine in said  
3 town, whose duty it shall be, under the direction of the fire-  
4 wards, to attend fires therein with axes, fire hooks, fire sails and  
5 ladders, and perform such further duty as the selectmen shall  
6 from time to time prescribe.

1821, 132, § 5.

SECT. 9. Each town at the annual meeting may elect as  
2 many firewards as may be deemed necessary; and each person  
3 so chosen shall be notified in three days, and he shall enter his  
4 acceptance or refusal of the office with the town clerk, within  
5 three days after such notice, on penalty of ten dollars, unless  
6 excused by the town, and the town shall elect another in his  
7 room.

1821, 132, § 6.

SECT. 10. When any fire shall break out in any town, the  
2 firewards shall immediately attend at the place with their badges  
3 of office; and when there, any three of them shall have power  
4 to direct any building to be pulled down or demolished, as they  
5 may judge necessary to prevent the spreading of the fire.

1821, 132, § 6.

SECT. 11. If such firewards are not present, a major part of the selectmen present, shall have the same power.

1821, 132, § 7.

SECT. 12. If no selectmen be present, two or three civil officers, or in their absence, military officers, shall have the same power as firewards.

1821, 132, § 7.

SECT. 13. During the continuance of any fire, said firewards 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, and generally to direct all operations to prevent further destruction or damage.

1821, 132, § 7.

SECT. 14. Any person refusing to assist or to obey orders given by such firewards or officers in the premises shall forfeit and pay the sum of ten dollars.

1821, 132, § 7.

SECT. 15. If the pulling down or demolishing any house or building shall be the means of stopping the fire, or if the fire be stopped before it shall come to the same, then every owner of such house or building, shall receive a reasonable compensation from the town in which the fire shall be, and the qualified voters in such town shall grant such sum as may be necessary for the purpose of such compensation and the assessors shall assess the same.

1821, 132, § 8.

SECT. 16. But any person considering himself aggrieved by the doings of the town, selectmen, or assessors, in estimating, voting or assessing the same, may apply to the county commissioners at their next meeting; and they shall have power after due notice given to the selectmen of such town to confirm the doings aforesaid, or alter the same as they shall judge proper; and award costs to either party as the decision may be; and the sum so assessed, according to said decision, shall be forthwith committed and collected.

1821, 132, § 8.

SECT. 17. When it shall be adjudged as aforesaid proper that the house or building, where the fire shall begin and break out, shall be pulled down or demolished to prevent the further increase and spreading of the fire, then the owner of such building shall receive no compensation for the same.

1821, 132, § 8.

SECT. 18. If at any fire any person shall plunder, steal, embezzle, convey away or conceal any furniture, or goods and merchandize, belonging to the owner or occupant of any house or building then on fire, or being in immediate danger, or placed there by any other person, while the owner of the same and others are lawfully removing the same, and shall not restore the same or give notice of them to the owner or one of the firewards, the person so offending and being convicted thereof, shall be deemed guilty of larceny and punished accordingly.

1821, 132, § 9.

SECT. 19. No person shall occupy any building or tenement  
2 in any maratime town for the business of a sail maker or rigger  
3 or keeper of a livery stable, except only in such part of the  
4 town as the selectmen shall allow and direct, and any sail maker  
5 or rigger who shall offend against this section shall forfeit and  
6 pay for such offence, ten dollars per month. 1821, 132, § 10.

SECT. 20. And any keeper of a livery stable, who shall so  
2 offend shall forfeit and pay for such offence fifty dollars for  
3 every month, so occupying the same, and so in proportion for a  
4 shorter or longer time. 1821, 132, § 10.

SECT. 21. The said penalties shall be appropriated, two  
2 thirds to the use of the town where the offence is committed  
3 and the other to him who shall sue for the same, with costs.

1821, 132, § 11.

SECT. 22. All persons attached to any engine shall be excused  
2 from serving as jurors in any court, unless the towns to which  
3 they respectively belong shall otherwise decide.

1821, 132, § 12.

SECT. 23. Nothing in this chapter shall be construed to con-  
2 trol the manner in which any officers of the fire department are  
3 appointed in any city, town or district, under the provisions of  
4 any existing laws, specially applicable thereto.

## CHAPTER 34.

### OF SAFE KEEPING OF GUN POWDER, AND PREVENTION OF FIRE.

- Sect.* 1. Selectmen to make regulations.  
2. Penalty for violating them.  
3. Gun powder in such cases, may be seized, &c.  
4. Persons injured by explosion, may recover damages.  
5. Selectmen may search for gun powder, &c.  
6. Stove pipes to be kept in order.  
7. Penalties how appropriated.  
8. Town regulations to be published three weeks, &c.

SECT. 1. In every town the selectmen are authorized to make  
2 regulations, in conformity to which, all gunpowder within the  
3 town shall be kept, when and how transported from place to  
4 place; and no person shall keep in such town any gunpowder  
5 in any other quantity or manner than are prescribed in such  
6 regulations. 1821, 25, § 1.

SECT. 2. Whoever shall violate any of the provisions of the  
2 preceding section, shall forfeit a sum not less than twenty  
3 dollars, nor more than one hundred dollars, for each offence.

1821, 25, § 2.



SECT. 3. All gunpowder kept in any town contrary to said provisions, may be seized by any of the selectmen of the town as forfeited, and within twenty days after such seizure be libelled, and such proceedings be had upon such libel as are prescribed by law. 1821, 25, § 3.

SECT. 4. Any person injured by the explosion of gunpowder 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 custody or possession of the same, at the time of the explosion, or against the owner of the same, if consuant of such neglect. 1821, 25, § 4.

SECT. 5. Any selectman, shall have authority to enter any building or other place in his town to search for gunpowder, supposed to be concealed there contrary to law, having first obtained a search warrant for the purpose, in due form. 1821, 25, § 5.

SECT. 6. When any stove pipe in any town, shall be defective, or out of repair, or so placed as to endanger any other building by communicating fire thereto, the selectmen shall give notice in writing to the possessor of such stove, and if he shall unnecessarily neglect for six days after such notice, to remove or repair the same effectually, he shall forfeit and pay a fine, not less than ten dollars nor more than fifty dollars, to be recovered by an action of debt. 1821, 25, § 6.

SECT. 7. The fines and penalties above mentioned, shall accrue, one half to the town in which the offence shall be committed, and other half to him who shall prosecute for the same. 1821, 25, § 7.

SECT. 8. The rules and regulations, which shall be established in any town according to the provisions of this chapter, shall not be in force, till they shall have been published by the selectmen of such town, three weeks successively in a newspaper in the county, or by posting up attested, copies of them in three places in such town. 1821, 25, § 8.

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## CHAPTER 35.

### OF GAMING FOR MONEY OR OTHER PROPERTY.

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- Sect. 1. Persons losing money by gaming, may recover it back, &c.  
 2. If not paid back in three months, to pay treble value—may be recovered by others.  
 3. Parties may testify in the cause, &c.  
 4. Penalty for winning at gaming.  
 5. Mortgages, notes, &c. void, except as to certain persons.  
 6. When adjudged void to whom the lands shall enure.  
 7. Penalty for gaming in taverns, licensed shops, &c.  
 8. Penalty for keeping a house of resort for gamesters, &c.  
 9. Penalty for any person playing at games in said house.

SECT. 1. If any person shall by playing at cards, dice or any  
2 other game, or by betting on the sides or hands of those who  
3 are gaming, lose, to any person so playing or betting, any sum  
4 of money or any goods whatever, and shall pay or deliver the  
5 same or any part thereof to the person winning, the person so  
6 losing and paying or delivering the same may sue for and recover  
7 such money, in an action for money had and received ; and such  
8 goods in an action of trover or a special action on the case  
9 therefor to be brought in three months. 1821, 18, § 2.

SECT. 2. If the person so losing said money or goods, shall  
2 not, within three months after such loss, without covin or collu-  
3 sion prosecute with effect for such money or goods ; it shall be  
4 lawful for any other person to sue for and recover against such  
5 winner, treble the value of such money or goods with costs of  
6 suit in an action under the provisions of this chapter ; one  
7 moiety to the use of the person so prosecuting, and the other  
8 moiety to the use of the town. 1821, 18, § 2.

SECT. 3. In any action brought, as provided in the first section,  
2 and for the purpose therein stated, if the plaintiff shall offer to  
3 make oath, that the money or the goods for which the action is  
4 brought, were lost by gaming with the defendant, as alleged in  
5 the declaration, the court shall render judgment that the plaintiff  
6 recover damages to the amount of such money or goods, unless  
7 the defendant will make oath that he did not obtain the same or  
8 any part thereof by gaming ; and if he shall so discharge him-  
9 self on oath, he shall recover of the plaintiff his costs ; provided  
10 that the plaintiff, at his election, may maintain and prosecute his  
11 action in the usual course of proceedings, in such actions at  
12 common law. 1821, 18, § 4.

SECT. 4. Whoever shall be convicted, on indictment, of  
2 winning at any one time or sitting, by gaming or by betting on  
3 the hands or sides of such as are gaming, any money or goods  
4 to the value of three dollars or more and of receiving the same  
5 or security therefor, shall forfeit to the use of the town where  
6 the offence was committed double the value of the property so  
7 won and received, provided the indictment shall be found within  
8 three months after the commission of the offence. 1821, 18, § 3.

SECT. 5. All notes, bills, bonds, mortgages or other securities  
2 or conveyances whatever, in which the whole or any part of the  
3 consideration shall be for money or goods won by gaming or  
4 playing at cards, dice or any other game, or by betting on the  
5 hands or sides of those who are gaming, or for reimbursing or  
6 repaying any money knowingly lent or advanced for any gaming  
7 or betting, or lent and advanced at the time and place of such  
8 gaming and betting, shall be void and of no effect.

SECT. 6. And whenever any mortgage or other conveyance of  
2 lands, shall be adjudged void under the provisions of the pre-  
3 ceding section, such lands shall enure to the sole use and benefit  
4 of such person or persons, as would then be entitled thereto, if

5 the mortgager or grantor were naturally dead ; and all grants or  
6 conveyances for preventing such lands from coming to or  
7 devolving upon such person or persons to whose use and benefit  
8 said lands would so enure, shall be deemed fraudulent and of no  
9 effect.

SECT. 7. If any person shall play at cards, dice or billiards  
2 or with any other implements used in gaming, in any tavern or  
3 house of entertainment, or place licensed for retailing spirituous  
4 liquors or in any of the out houses, yards, gardens or appendages  
5 of the same, or shall in any of the houses or licensed places  
6 aforesaid, expose to view any of such implements or shall be  
7 seen sitting at any table therein with any of such implements  
8 before them, and shall be convicted thereof before any justice  
9 of the peace, or the district court on indictment, the person so  
10 offending shall forfeit and pay a fine not less than one nor more  
11 than ten dollars to the use of the town where the offence was  
12 committed.

SECT. 8. If any person or corporation, shall keep a house,  
2 shop or other place resorted to for the purpose of gaming, or  
3 permit any person in any house, shop or place under his control  
4 or care to play at cards, dice, billiards or other game for money  
5 or other things, such person or corporation shall pay a fine of  
6 not less than twenty dollars nor more than one hundred dollars,  
7 to be recovered on indictment, in the district court, for the  
8 prosecutor's use. 1836, 221, § 1.

SECT. 9. If any person shall, for money or other thing there  
2 play at any of the games before named, or bet on any person  
3 so playing, he shall pay a fine, not less than one dollar nor more  
4 than twenty dollars to be recovered on complaint before a jus-  
5 tice of the peace, or the district court, on indictment to the use  
6 before mentioned. 1836, 22, § 2.

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## NOTES.

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The commissioners in revising the chapter have retained all the sections of the original statute ; but they are apprehensive that the *sixth* section contains provisions of such a character as may render the law unjust in its operation. The fifth section declares all deeds, mortgages, &c. made to secure the payment of money lost by gaming, *wholly null and void* ; and that the estate so conveyed or mortgaged, shall enure to the sole use of those who would be entitled thereto, if the grantor or mortgager were then naturally dead. The consequences, then, would be these. If a person, having no knowledge of the illegal consideration of such deed or mortgage, should purchase the land, *bona fide*, of the grantee or mortgagee for a valuable consideration, he would lose the land and consideration too ; and that title which he had honestly purchased would have vested in the first grantor's or mortgager's heirs, who never paid any consideration for it. And in addition to this, his creditors would lose all power of taking such land for the payment of their debts. Thus, the law, to prevent a man from paying a *gaming* debt, by the conveyance of his land, at once gives the land to his heirs, and

defeats the rights of all who have fair claims. The commissioners respectfully submit to the Legislature, whether these consequences should not be prevented.

This may be done by adding to the *fifth* section, after the words "no effect" the following—"as between the parties to the same, and all other persons, except such as hold and claim under them in good faith and without notice of the illegality of the consideration of such contract or conveyance," and then by striking out the sixth section entirely.

## CHAPTER 36.

### OF INNHOLDERS, COMMON VICTUALLERS AND RETAILERS OF SPIRITOUS LIQUORS.

- Sect.* 1. Selectmen, treasurer and clerks of towns to grant licenses in September annually, for one year.
2. Persons licensed to give bonds.
3. Licenses may be granted at other times, for remainder of year.
4. Persons licensed to pay one dollar.
5. Duty of innholders, and
6. Of common victuallers.
7. Innholders and victuallers to have signs.
8. Gaming prohibited.
9. Same subject.
10. Revelling, riotous conduct and tippling prohibited.
11. Spirituous liquors not to be furnished to soldiers of the United States, under certain circumstances.
12. No spirituous liquors to be furnished indians.
13. Selectmen may prohibit the selling of spirituous liquors to idlers and spendthrifts.
14. Penalty for breach of such prohibition.
15. Proceedings on the breach of the bond of any person licensed.
16. Preceding provisions extended to cities and plantations.
17. Penalty for being an innholder, common victualler or retailer without license.
18. And for selling spirituous liquors in particular without license.
19. Recovery of penalties when not exceeding twenty dollars.
20. Also when exceeding twenty dollars.
21. Duty of municipal officers to prosecute.
22. Officers prosecuting not to discontinue without leave of court.
23. Licenses heretofore granted to remain valid, &c.

SECT. 1. The selectmen, treasurer and clerk of every town, shall annually meet on the first Monday of September or on the succeeding day or both, and at such time and place, in said town, as the selectmen may appoint, by posting up notices in two or more public places therein at least seven days previously stating the purpose of the meeting, and at such meeting may license under their hands as many persons of good moral character and under such restrictions and regulations as they may deem necessary, to be innholders, victuallers or retailers, of wine, brandy, rum or other strong liquors in said town until the day succeeding the first Monday in September, of the next fol-

12 lowing year, in such house or other building as the license may  
13 specify. 1834, 141, § 2.

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— 1834, 141, § 2.

Know all men that we — as principal and — as sureties,  
2 are hold and stand firmly bound to — treasurer of the town  
3 of — in the sum of three hundred dollars to be paid to him  
4 or his successor in said office, to the payment whereof we bind  
5 ourselves, our heirs executors and administrators, jointly and  
6 severally by the presents. Sealed with our seals. Dated the  
7 — day of — in the year 18 .

8 The condition of this obligation is such that whereas the above  
9 bounden — has been duly licensed as a — within the said  
10 town of — until the day succeeding the first Monday of Sep-  
11 tember; now if the said — shall in all respects conform to  
12 the provisions of the law, relating to the business for which he  
13 is licensed and to such rules and regulations as have been pro-  
14 vided by the board granting his license in reference thereto,  
15 then his obligation shall be void, otherwise shall remain in full  
16 force.

SECT. 3. The said selectmen, treasurer and town clerk, may,  
2 at any other time at a meeting specially called and notified as  
3 aforesaid, for the consideration of any application therefor to  
4 them, made, grant such license on the like conditions; but all  
5 such licenses shall expire on the day mentioned in the first sec-  
6 tion. 1834, 141, § 2.

SECT. 4. Every person licensed, shall pay to the treasurer for  
2 the use of the board, granting the license one dollar; and the  
3 clerk shall make a record of all the licenses granted.

SECT. 5. Every innholder, shall at all times be furnished with  
2 suitable provisions, and lodging, for strangers and travellers,  
3 and with stable room, hay and provender, for their horses and  
4 cattle; and with pasturing if required by the terms of his license;  
5 and it shall be his duty to grant such reasonable accommoda-  
6 tions, as occasion may require, to strangers, travellers and  
7 others. 1834, 141, § 3.

SECT. 6. Every common victualler shall have all the rights  
2 and privileges, and be subject to all the duties and obligations  
3 of an innholder, excepting that he shall not be required to fur-  
4 nish lodging for travellers, nor stable room, hay and provender  
5 for cattle.

SECT. 7. Every innholder and common victualler, shall at all  
2 times, have a board or sign affixed to his house, shop, cellar or  
3 store, or in some conspicuous place near the same, with his  
4 name at large thereon, and the employment for which he is  
5 licensed. 1834, 141, § 3.

SECT. 8. No innholder, common victualler or retailer, shall  
 2 have or keep about his house, shop, or other buildings, yards,  
 3 gardens or dependencies, any dice, cards, bowls, billiards, quaits  
 4 or other implements, used in gaming; nor shall suffer any per-  
 5 son resorting thither, to use or exercise any of said games or  
 6 any other unlawful game or sport, within his said premises.

1834, 141, § 4.

SECT. 9. Every person, who shall use or exercise any such  
 2 game or sport, in any place prohibited by the preceding section,  
 3 shall forfeit five dollars.

1834, 141, § 4.

SECT. 10. No innholder, common victualler, or retailer of  
 2 strong liquors, shall suffer any revelling, riotous or disorderly  
 3 conduct in his house, shop or other dependencies, nor shall  
 4 suffer any person to drink to drunkenness or excess therein—nor  
 5 suffer any minor or servant, except travellers, to have any strong  
 6 drink there.

1834, 141, § 5.

SECT. 11. No innholder, common victualler or retailer of  
 2 strong liquors, shall sell or furnish to any non-commissioned  
 3 officer or soldier in the service of the United States, knowing  
 4 him to be such, any spirituous liquors, or any liquors part of which  
 5 are spirituous, within five miles of any fort, barracks or military  
 6 post, nor beyond that distance, if on duty, without a permit from  
 7 the commanding officer, of the corps, to which such officer or  
 8 soldier, may belong; provided such commanding officer, shall  
 9 cause to be posted, in the office of the town or plantation clerk,  
 10 where such innholder, victualler or retailer resides, a list of the  
 11 names of the commissioned officers and soldiers belonging to  
 12 his corps.

1823, 423, § 1.

SECT. 12. No innholder, victualler or retailer, shall sell, give  
 2 or in any manner furnish to any indian, any wine, rum or other  
 3 spirituous liquors or any liquors part of which are spirituous,  
 4 unless in case of sickness, and then only under the direction of a  
 5 regular practising physician.

1830, 482, 3.

SECT. 13. Whenever any person shall, by idleness or exces-  
 2 sive drinking of spirituous liquors, so misspend, waste or lessen  
 3 his estate as thereby either to expose himself or his family to  
 4 want, or the town to which he belongs, to expense for the main-  
 5 tenance of him or his family, or shall so habitually indulge him-  
 6 self in the use of spirituous liquors, as thereby greatly to injure  
 7 his health or endanger the loss thereof, the selectmen of the  
 8 town, in which such person lives, shall in writing under their  
 9 hands, forbid all licensed innholders, common victualler, and  
 10 retailers of the same town, to sell to him any spirituous or strong  
 11 liquors for the term of one year; and they may in like manner  
 12 forbid licensed persons in any other town to which it may be  
 13 probable such misspender of time and estate, may resort for the  
 14 same; and the selectmen may renew such prohibitions from  
 15 year to year until they shall be satisfied that the person to whom  
 16 they relate shall have reformed; and all such prohibitions shall

17 be binding upon the licensed persons, to whom they shall be  
18 communicated. 1834, 141, § 7.

SECT. 14. If during the continuance of any such prohibition  
2 as is provided in the preceding section, any person whatever  
3 having knowledge thereof, shall purchase, procure or sell, any  
4 spirituous or strong liquors, to or for the use of any person, who  
5 is the subject of such prohibition, he shall forfeit ten dollars.

1834, 141, § 9.

SECT. 15. The selectmen, treasurer, and clerk, of every town  
2 shall, whenever any instance of a breach of the condition of  
3 the bond described in the second section of this chapter, by  
4 any licensed innholder, victualler or retailer shall have come to  
5 their knowledge, and after complaint, notice to the party com-  
6 plained of, and a hearing thereon, revoke and make void his  
7 license; they shall also, at the expense and for the use of the  
8 town, cause his bond to be put in suit, in any court proper to  
9 try the same. 1834, 141, § 8.

SECT. 16. All the preceding provisions of this chapter, relat-  
2 ing to towns and their treasurers and clerks, shall be applicable  
3 to cities and plantations and the treasurers and clerks thereof;  
4 and those relating to selectmen, shall also be applied to the  
5 mayor and aldermen of cities, and the assessors of plantations.

SECT. 17. No person, shall be allowed to be a common  
2 victualler, innholder or seller of wine, brandy, rum or any strong  
3 liquors, by retail or in a less quantity than twenty-eight gallons,  
4 and that delivered and carried away all at one time, except such  
5 person be duly authorized therefor, and have given bond there-  
6 for pursuant to the provisions of this chapter, on pain of  
7 forfeiting not less than fifty, nor more than three hundred dollars.

1834, 141, § 1.

SECT. 18. If any person, not being licensed, and under bonds  
2 as aforesaid, shall at any time sell any spirituous liquors, or any  
3 mixed liquors, part of which is spirituous, he shall forfeit and  
4 pay for each offence not less than ten dollars.

1834, 141, § 1.

SECT. 19. Any fine, forfeiture or penalty, not exceeding  
2 twenty dollars arising from any of the offences aforesaid may  
3 be recovered by an action of debt or by complaint before any  
4 justice of the peace for the county, where the offence was com-  
5 mitted; or the action may be brought in the name of the said  
6 town, and in that case the whole penalty shall enure to the  
7 town.

1834, 141, § 10. 1835, 193, § 1. 3 Fairfield, 204.

SECT. 20. All fines, forfeitures or penalties exceeding twenty  
2 dollars, may be recovered before any competent jurisdiction, by  
3 an action of debt in the name of the person prosecuting, or of  
4 the town or plantation, where the offence may have been com-  
5 mitted, or by indictment; and the whole forfeiture so recovered,  
6 and also the forfeiture of any bond given, pursuant to the second

7 section of this chapter, shall, when recovered, enure to the sole  
8 use of such town or plantation.

1834, 141, § 10. 1835, 193, § 1. 3 Fairfield, 204.

SECT. 21. It shall be the duty of the mayor and aldermen of  
2 cities, selectmen of towns and assessors of plantations and of  
3 the treasurers and clerks thereof respectively to prosecute every  
4 person, who without being duly licensed shall be an innholder,  
5 common victualler, or retailer of spirituous liquors on obtaining  
6 evidence thereof; or any person who shall otherwise violate the  
7 provisions of this chapter, within their city, town or plantation.

1834, 141, § 10. 1835, 193, § 1. 3 Fairfield, 204.

SECT. 22. No prosecuting officer shall discontinue any legal  
2 process commenced or to be commenced under the provisions  
3 of this chapter, except by direction of the court before which  
4 the same may be pending.

1834, 141, § 10. 1835, 193, § 1. 3 Fairfield, 204.

SECT. 23. All licenses heretofore granted shall retain the  
2 same validity according to the conditions thereof as if this chap-  
3 ter had not been enacted.

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## NOTES.

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SECT. 6. The term common victualler has been long in use, though perhaps without a very definite signification. The commissioners here define what they understand to be his duties.

SECT. 11. The commissioners here propose to revive the act of 1829, ch. 423, which they suppose to have been inadvertently repealed by the last section of chapter 141, 1834.

SECT. 12. This section also revives the third section of 1830, ch. 482, for a similar reason to the one given in the preceding note.

SECT. 17. As a licensed innholder, &c. is liable by his bond to a penalty of \$300, it seems proper that a person acting without a license should be exposed to as great a penalty, for which purpose an amendment is introduced.

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## CHAPTER 37.

### OF PREVENTING ABUSES IN DISTILLING STRONG LIQUORS.

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Sect. 1. No person shall distil through leaden heads, worms or pipes.

2. No brazier, &c. shall make any such.

3. Towns may choose assay masters—their duties.

4. Same subject.

5. Penalties, recovery and appropriation.

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SECT. 1. No person shall distil or draw off any spirit or  
2 strong liquors, through leaden heads, worms or pipes.

1821, 29, § 1.



SECT. 2. No brazier, pewterer, or other artificer, shall make  
2 any worm or head for distilling, of coarse and base pewter or  
3 such as has any mixture of lead in it. 1821, 29, § 2.

SECT. 3. Each town in which the distilling trade is carried on  
2 may at the annual meeting thereof, choose two or more assay  
3 masters, who shall be duly sworn, and whose business it shall be  
4 to inspect and try such heads and worms as they may suspect to  
5 be illegally made; and if found to be made of lead or other  
6 base metal on trial, they shall give notice thereof to the distiller,  
7 and he shall not make any further use of them in distilling.

1821, 29, § 3. 29, § 1.

SECT. 4. Assay masters or inspectors, chosen as aforesaid, are  
2 empowered to enter into any still house or place where suspected  
3 utensils are used or kept, and cut off so much as may be needful  
4 to make the assay; and every distiller shall be bound to produce  
5 a certificate from the assay master for the time being, for all  
6 pewter heads and worms which they shall use for distilling, that  
7 they have been tried, approved and marked; which mark shall be  
8 prepared by the town; for which certificate they shall be allowed  
9 by the distiller or owner of the heads and worms one dollar;  
10 and such certificate shall be entered in the town clerk's books,  
11 whose fee therefor shall be ten cents. 1821, 29, § 4.

SECT. 5. Any of the persons mentioned in the first, second or  
2 third section, who shall neglect to perform the duties required  
3 of them, or who shall violate any of the prohibitions in either  
4 of said sections, shall forfeit the sum of three hundred dollars,  
5 one half to the town where the offence is committed, and the  
6 other half to the person who shall inform and sue for the same.

## CHAPTER 38.

### OF RECORDING BIRTHS AND DEATHS.

- Sect.* 1. Town clerk's duty to record births, &c.  
2. Duty of parents and others to notify such clerk.  
3. Penalty for neglect.

SECT. 1. Every town and plantation clerk, shall record all  
2 births and deaths which shall occur in the town or plantation of  
3 which he is clerk, and come to his knowledge, stating the time  
4 when each such event took place, and the names of the parents  
5 if known, for the fees allowed by law, to be paid by such town  
6 or plantation. 1821, 136, § 1.

SECT. 2. It shall be the duty of parents, house holders, mas-  
2 ters of work houses, alms houses and prisons, and vessels to give  
3 notice to the clerk of the town, in which they respectively reside,  
4 of the births and deaths, which take place in the respective

5 families, houses, or vessels, in which such event may occur ; and  
6 also the duty of the elder person next of kin, to give like notice  
7 of the death of his kindred. 1821, 136, § 2.

SECT. 3. Any person neglecting to perform the duty required  
2 of him in this chapter, for the space of six months, shall forfeit  
3 and pay one dollar, to be recovered on complaint to the use of  
4 such town. 1821, 136, § 3.

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## CHAPTER 39.

### OF PUBLIC SHOWS AND EXHIBITIONS.

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Sect. 1. No person shall exhibit, pageantry, tricks, animals, &c. without license—  
penalty.

2. Who may give the license, and on what terms.<sup>1</sup>

3. This chapter not to apply to museum.

4. Duty of mayor, &c. to prosecute offenders.

5. Penalties how recovered and appropriated.

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SECT. 1. If any person shall for money or other valuable arti-  
2 cle, in any city, town or plantation, in this State exhibit any  
3 images or pageantry, slight of hand tricks, puppet show or circus,  
4 or exhibit any living animal or collection of animals or any feats  
5 of balancing, wire dancing, personal agility, slight or dexterity,  
6 without a license therefor, as hereinafter provided, shall forfeit  
7 and pay for every such offence, a sum not exceeding one hundred  
8 dollars, nor less than ten dollars.

1824, 266, § 1. 1833, 70, § 1.

SECT. 2. The mayor of any city, the selectmen of any town  
2 and the assessor of any plantation may grant license for any of  
3 the foregoing exhibitions or performances therein, on receiving  
4 for the use thereof, such sum as they may deem proper, but not  
5 less than five dollars for every such exhibition ; twenty-four hours  
6 being allowed for the same. 1833, 70, § 2.

SECT. 3. Nothing in this chapter shall be construed to extend  
2 to any permanently established museum. 1833, 70, § 2.

SECT. 4. It shall be the duty of the mayor of any city, of the  
2 selectmen of any town and the assessors of any plantation to  
3 prosecute in the name of the corporation entitled, all persons  
4 violating any of the provisions of this chapter. 1833, 70, § 3.

SECT. 5. All such fines shall be recovered in an action of  
2 debt, and for the use of such city, town or plantation.

## CHAPTER 40.

## OF MISCHIEVOUS DOGS.

- Sect.* 1. Owners or keepers of dogs, liable for damage done.  
 2. Person suddenly assaulted by a dog may kill him.  
 3. Penalty for not killing or confining a mischievous dog.  
 4. After complaint, if dog be at large he may be killed.  
 5. Treble damages may be recovered for damage after notice.

SECT. 1. When any dog shall do any damage to the person  
 2 or property of another, the owner or keeper of such dog, and  
 3 also the parent, guardian, master or mistress of any minor or  
 4 servant who shall own or keep such dog, shall forfeit and pay to  
 5 the injured person double the amount of the damage done, to  
 6 be recovered by action of trespass. 1821, 174, § 1.

SECT. 2. Any person may lawfully kill any dog that shall  
 2 suddenly assault him when peaceably walking or riding out of  
 3 the inclosure of the owner; or any dog found out of the inclo-  
 4 sure or immediate care of the owner, worrying, wounding or  
 5 killing, any cattle, sheeps or lambs. 1821, 174, § 2.

SECT. 3. If any person shall be so assaulted, or if any dog  
 2 shall be strolling out of the inclosure or immediate care of its  
 3 owner or keeper by day or night, and the person so finding such  
 4 dog, shall within forty-eight hours after such assault or finding,  
 5 make oath before a justice of the peace of the same county  
 6 that he really suspects such dog to be a dangerous or mischie-  
 7 vious dog and shall give notice to the owner or keeper by giving  
 8 him a copy of such oath, signed by such justice, the owner or  
 9 keeper shall kill such dog or confine him forthwith; and if he  
 10 neglects so to do, for twenty-four hours he shall forfeit and pay  
 11 five dollars to any person who shall sue for the same.

1821, 174, § 3.  
 SECT. 4. If such dog shall not be, so killed or confined but  
 2 be again at large, and out of the care of the owner or keeper,  
 3 any person may lawfully kill such dog. 1821, 174, § 4.

SECT. 5. If any dog after notice given as aforesaid, wound  
 2 any person by a sudden assault as aforesaid, or wound or kill  
 3 any cattle, sheep or lambs, the owner or keeper shall be liable  
 4 to pay the person injured, treble damages and costs to be recov-  
 5 ered before the proper court of the county. 1821, 174, § 5.

## CHAPTER 41.

## OF DESTRUCTION OF MOOSE AND DEER.

SECT. 1. Any person who shall kill any moose or deer between the first day of January and the first day of September in any year, shall forfeit and pay for every moose ~~and~~ deer so killed, the sum of ~~fifteen~~ <sup>five</sup> dollars, one moiety to the use of the county in which the offence may be committed and the other moiety for the use of the person who shall sue for the same within six months next after the commission of the offence, and not afterward. 1830, 471.

## CHAPTER 42.

## OF THE DESTRUCTION OF WOLVES.

SECT. 1. Any person who shall deliver to the treasurer of any town or plantation, the head of any wolf which shall be killed in this State, and shall make oath before any justice of the peace in the county where the same was killed that the said wolf was killed within this State after this chapter had become a law, and that the head so presented is the head of a wolf; and shall present such affidavit with the said head to such treasurer, he shall be entitled to receive from the treasurer fifteen dollars for the same. 1837, 261, § 1.

SECT. 2. And the amount so paid by such town or plantation shall be allowed and paid to him by the state treasurer, on presentment of the account of such town or plantation treasurer, verified by his oath or affirmation.

SECT. 3. Every town or plantation treasurer who shall receive the head of any wolf as aforesaid, shall immediately destroy the same and preserve all affidavits received by him.

