

MAINE STATE LEGISLATURE

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REVISION II.

REPORT

OF THE

COMMISSIONER

APPOINTED TO

REVISE THE PUBLIC LAWS

OF THE

STATE OF MAINE.

PUBLIC INSTRUCTION, WAYS, POOR, ETC.

TITLE II.

Augusta:

FULLER & FULLER, PRINTERS TO THE STATE.

1856.

TITLE SECOND.

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

Chap. 11. Education of youth.

12. Parishes, meeting houses, ministerial and school lands and funds arising therefrom.
 13. The practice of physic and surgery.
 14. Prevention of contagious sickness.
 15. Burying grounds.
 16. Drains and common sewers.
 17. Nuisances.
 18. Ways.
 19. The law of the road.
 20. Ferries.
 21. Work houses.
 22. Fences and common fields.
 23. Pounds and impounding beasts.
 24. Paupers, their settlement and support.
 25. Keeping watch and ward in towns, and of disorders in streets and public places.
 26. Engine men, fires and the prevention of fire.
 27. Innholders and victualers.
 28. The suppression of drinking houses and tippling shops.
 29. Public exhibitions, bowling alleys, and billiard rooms.
 30. Mischievous dogs, wolves and bears, moose and deer.
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1850, c. 193, § 1.

Inhabitants may determine the number and limits of school districts within such town.

1850, c. 193, § 2.
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District agents, how chosen.

1850, c. 193, § 3.

Proceedings, if town contain but one district.

1850, c. 193, § 4.

Money to be raised for support of schools.

1850, c. 193, § 5.
1854, c. 104, § 2.

Apportionment of money to the districts.

SECT. 1. The school districts shall remain as now established until altered or discontinued.

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

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

SECT. 4. In any town containing but one district all business relating to schools and school houses may be transacted at any regular town meeting.

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

SECT. 6. The assessors of every town shall assign to each school district within the same a proportion of the money raised in each year for the support of schools, or derived from any corporate school fund, bank tax, grant from the state, interest of the permanent school fund, or any other fund at the disposal of such town for the gen-

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7 eral benefit of schools therein; such apportionment to be
 8 made according to the number of children between the ages
 9 of four and twenty-one years residing in such districts
 10 respectively on the first Monday of May annually exclusive
 11 of such as may have come from other places, where they
 12 belong, to attend any college or academy, or to labor in
 13 any factory in any such district.

1850, c. 193, § 6.
 1855, c. 147.

SECT. 7. If any town shall fail to raise and expend annu-
 2 ally for the support of schools the amount of money re-
 3 quired by law, such town shall forfeit a sum not less than
 4 twice, nor more than four times, the amount of such deficiency.

Forfeiture for
 neglect to raise
 the amount
 required.

1850, c. 193, § 7.

SECT. 8. Every town at its annual meeting shall choose
 2 by ballot, except in cases where it is already done, a super-
 3 intending school committee consisting of three persons,
 4 who at their first meeting shall designate by lot one mem-
 5 ber of their board to remain in office three years; also
 6 another member to remain in office two years, and the re-
 7 maining member shall hold his office one year.

Superintending
 school
 committee.

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

1850, c. 193, § 8.
 1855, c. 127.

SECT. 9. Instead of such committee an inhabitant of the
 2 town may be chosen annually as supervisor of public schools,
 3 who shall be duly sworn, and have all the power and be
 4 subject to all the duties and liabilities of such committee,
 5 and his election shall terminate the office of any existing
 6 member thereof. When such committee is again chosen,
 7 the term, during which they are to continue in office, shall
 8 be determined as provided in the preceding section.

Supervisor of
 schools.

1852, c. 268.
 1853, c. 43.
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Forfeiture for
neglect to
choose.

1850, c. 193, § 10.

Superintending
committee may
be vested with
powers of school
agents in certain
cases,

1850, c. 193, § 11.

Districts may
choose super-
intending
committee, and
district commit-
tee, same as
towns.

1854, c. 104,
§ 4, 5.

Privileges
allowed to
remote parts of a
town, and to
residents in
ceded places.

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

SECT. 11. Any town, which shall by a standing vote pro-
2 vide for the purpose, may instead of a superintending com-
3 mittee and school agents, as hereinbefore provided, elect
4 their superintending committee annually of such number
5 not less than three, as they shall think proper, and may
6 invest such committee with the rights, powers, and obliga-
7 tions, pertaining to school agents, as well as to a superin-
8 tending committee, including the power and duty of deter-
9 mining the age at which scholars may be admitted into the
10 respective schools, of transferring scholars from one school
11 to another, and of laying out the money raised for supporting
12 schools and defraying the contingent expenses thereof, and
13 such others of said powers as may be useful and necessary
14 in managing the business committed to them.

SECT. 12. And any town, which shall determine to elect a
2 superintending committee with the powers of school agents
3 and superintending school committee, may elect said com-
4 mittee annually, or may elect one-third of said committee
5 each year in the same manner that towns elect their super-
6 intending school committees, as provided in the eighth
7 section hereof. And any school district, which may deter-
8 mine to elect a district committee, as provided in the
9 twenty-sixth section of this chapter, may elect the same
10 annually, or one-third of the same each year.

SECT. 13. Any portion of a town not containing inhab-
2 itants enough for a convenient separate organization as a
3 district, and too remote for annexation to any district
4 already formed, may be omitted in districting the town to
5 which it belongs; and in such case the assessors of such
6 town shall appropriate their proportion of school money
7 according to the number of children of the ages specified
8 in section six, to be expended by such inhabitants for the
9 purpose of instruction in such manner, as the superintend-
10 ing committee shall order or approve in writing under their
11 hands. Persons of the required age in the service of the
12 United States and resident upon territory, the jurisdiction
13 of which has been ceded, included in or surrounded by a
14 school district, shall be permitted to attend school in such
15 district, subject to the right of the superintending school
16 committee to require of each such person payment for the

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17 use of the district of such sum of money as may be deemed
 18 reasonable. When such territory adjoins two or more
 19 school districts said committee shall designate the district,
 20 where they may attend.

1850, c. 193, § 12.
 1856.

SECT. 14. Whenever any town shall raise a sum of money
 2 exceeding the amount required by section fifth of this article,
 3 the excess may, if the town so vote, be apportioned among
 4 the several school districts, in such manner as the select-
 5 men and superintending school committee may determine.

Excess of money
 raised, how
 disposed of.

1850, c. 193, § 13.

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

Provisions
 concerning
 truants and
 certain children
 not attending
 school.

1835, c. 154

SECT. 16. The several towns availing themselves of the
 2 provisions of the preceding section shall appoint at their
 3 usual meeting three or more persons who alone shall be
 4 authorized to make the complaints in every case of violation
 5 of said ordinances or by-laws to the justice of the peace or
 6 other judicial officer, who by said ordinances shall have juris-
 7 diction in the matter, which person thus appointed shall
 8 alone have authority to carry into execution the judgments
 9 of said justices of the peace, or other judicial officers.

Shall appoint
 three or more
 persons.

1850, c. 193, § 15.

SECT. 17. The said justices of the peace or other judicial
 2 officers at their discretion, in place of the fine aforesaid,
 3 shall be authorized to order children proved before them
 4 to be growing up in truancy and without the benefit of the
 5 education provided for them by law to be placed for such
 6 periods of time, as they may judge expedient, in such insti-
 7 tution of instruction, or house of reformation, or other suit-
 8 able situation, as may be assigned or provided for the pur-
 9 pose under the authority conferred by the fifteenth section
 10 of this chapter.

Truant children
 placed in
 suitable
 institutions.

1850, c. 193 § 16.

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ARTICLE II. *Powers and obligations of school districts.*

School districts
declared to be
corporations.

1850, c. 193, art.
2, § 1.

How to be
described.

1850, c. 193, art.
2, § 2.

When deemed
legally
organized.

1850, c. 193, art.
2, § 3.

Legal voters.

1850, c. 193, art.
2, § 4.

Mode of calling
meetings.

1850, c. 193, art.
2, § 5. 1856.

Manner of
notifying
meetings.

1850, c. 193, art.
2, § 6.

Districts may de-
termine manner
of notifying.

1850, c. 193, art.
2, § 7.

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

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

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

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

SECT. 22. School district meetings, on the written appli-
2 cation of any three or more of the legal voters in such dis-
3 tricts respectively stating the reasons and objects of the
4 proposed meetings, may be called by the school district
5 agent. When there is no agent, or when he neglects or
6 refuses, a meeting on such application may be called by the
7 selectmen of the town.

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

SECT. 24. Every school district at any legal meeting
2 thereof may determine the manner, in which notice of its
3 future meetings shall be given.

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SECT. 25. At every such meeting a moderator shall be chosen, who shall have the same powers and duties as a moderator of a town meeting, but need not be sworn; and at the first meeting every year a clerk shall be chosen, and shall be duly sworn by the moderator, or a justice of the peace. It shall be the duty of the clerk to make a fair record of all votes passed at any meeting of the district during the year, and until another shall be chosen in his place and sworn; and he may certify copies from the records of such district. He may correct any errors as provided in section eight of chapter three.

Moderator and clerk.

1850, c. 193, art. 2, § 8;
1865, c. 146.

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

School district committee.

1850, c. 193, art. 2, § 9.

SECT. 27. Every school district at its annual meeting shall choose by ballot a school agent, unless such agent shall be chosen by the town as provided in section third of this chapter, and may at any meeting called for that purpose supply any vacancy that may occur in the office of agent, and such agent whether chosen by the town or by the district shall be sworn by the moderator or clerk of the meeting or by some justice of the peace.

Districts to choose agents unless chosen by the town.

1850, c. 193, art. 2, § 10.

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

General powers of districts.

First—To raise money for the purpose of erecting, repairing, purchasing, and removing, a school house, and for the purpose of erecting, repairing, renting, purchasing, and removing such a number of school houses, as the wants of such district may require, where more than one school house is necessary to accommodate the scholars in such district; and also for the purpose of erecting or removing out-buildings connected with such house or houses,—of purchasing or renting land upon which the same may stand, and for yards and play grounds, and for purchasing a library, utensils, black boards, globes, maps, and other useful apparatus; providing water for the school house or houses by means of wells and aqueducts, with necessary conveniences for the health and comfort of teachers and pupils, and for the purpose of enclosing the grounds and appurtenances of the

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19 school houses, with power to sell and dispose of any such
20 property, whenever it becomes necessary and proper to do so.

21 *Second*—To determine where the school house or houses
22 shall be located in said district.

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

28 *Fourth*—If they think proper, to instruct the agent at
29 what time their schools shall commence; with which direc-
30 tions the agent shall comply so far as practicable.

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

1850, c. 193, art.
2, § 11.

Graded free
schools may be
established.

1852, c. 143, § 1.

Duty of clerks in
such case, and
rights and
liabilities of
districts.

SECT. 29. Any two or more school districts may unite
2 for the purpose of establishing and maintaining a system of
3 graded free schools, whenever a majority of legal voters
4 present and voting at a meeting of the inhabitants of each
5 district legally called for the purpose shall so determine.

SECT. 30. Whenever two or more school districts have
2 voted to unite for the purpose and in the manner named in
3 the preceding section, the clerk of each of said districts shall
4 forthwith furnish the town clerk of the town, in which said
5 districts are situated, with a certified copy of such votes,
6 and the town clerk shall enter said votes upon the records
7 of such town, and from and after such record such districts
8 shall constitute one district to be known by such name or
9 title as the inhabitants thereof shall adopt, and shall have
10 all the rights and powers and be subject to all the liabili-
11 ties of other school districts.

1853, c. 243, § 2.

Towns not to
divide school
districts without
consent.

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

1852, c. 243, § 3.

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

Inhabitants authorized to raise additional school money.

1852, c. 243, § 4.

SECT. 33. Whenever at any meeting of a school district legally called for raising money for any particular purpose a majority of the legal voters present shall be opposed to the raising of any sum of money deemed by the minority sufficient for that purpose, the selectmen of the town on application in writing of any five or more voters in such district made within thirty days after such meeting shall insert in their warrant for calling the next town meeting on town affairs an article requiring the opinion of the town on the subject of disagreement; and if the town at such meeting shall think it necessary or expedient, they may require a sum sufficient for the purpose aforesaid, if exceeding what said district were willing to raise, to be assessed on the polls and estates in such district; and the same shall be assessed, collected, and paid over, in the same manner as if originally raised by such district; and thereupon it shall be the duty of the selectmen of the town to appoint in writing three suitable inhabitants of said district to be a committee to superintend the expenditure of the money so assessed and raised for the purpose required, who shall have all the powers of a committee chosen by the district in pursuance of the provisions of this chapter.

Towns may compel districts to raise money for certain purposes.

1850, c. 193, art. 2, § 12.

SECT. 34. At any district meeting called for the purpose of erecting or locating a school house in any district where none exist, or of removing or erecting any such school house in a different place from that previously occupied for the purpose, if a disagreement shall arise, and the voters in favor of the object in either case shall be less than two-thirds of the legal voters present at such meeting and voting, the clerk at the meeting shall make a record of the fact; and the selectmen of the town on application in writing from any three or more of the voters in such district, or of any committee of such district made within thirty days thereafter, shall as soon as may be appoint a time and

Power of selectmen in location of school houses.

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13 place within the district to hear the inhabitants thereof on
 14 the subject matter of such disagreement, and give such
 15 notice as is required for a legal meeting of the inhabitants
 16 of said district; and after such hearing may decide, where
 17 such school house shall be placed, and shall within ten days
 18 give a certificate of their determination to the clerk of the
 19 district, who shall forthwith enter the same upon his records;
 20 and the district shall proceed to erect, or remove, the school
 21 house in the same manner, as if determined by a sufficient
 22 majority of the legal voters present at said meeting: *pro-*
 23 *vided*, that no selectman residing in such district shall
 24 be allowed to have any voice in the determination; and
 25 whenever a majority of the selectmen of any town shall
 26 reside in one school district, in which it becomes necessary
 27 to locate a school house, or shall not be able to agree, the
 28 superintending school committee of said town shall be re-
 29 quired to do all the duties in relation to locating said house,
 30 which by this section are required of the selectmen.

1850, c. 193, art.
2, § 13.

If district refuse
for space of sixty
days, selectmen
may cause the
same to be
erected or
removed.

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

1850, c. 193, art.
2, § 14.

Selection of
school house
lots.

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

1854, c. 104, § 7.

Owner of land
aggrieved, issue

SECT. 37. Whenever the owner of such land shall feel
 2 aggrieved by the selection and location of such lot and the

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3 damages awarded, he shall be entitled to have the matter
 4 of complaint tried by a jury, which may be applied for
 5 within one year after the location of such lot, and shall be
 6 ordered accordingly by the county commissioners: and the
 7 jury shall have power to change the location and assess the
 8 damages, and the proceedings shall in all respects be
 9 conducted in the manner provided in cases of damages
 10 by laying out highways; and if the damages shall be
 11 increased, or the location be changed by the jury, the dam-
 12 ages and all charges shall be paid by the town or district,
 13 for whose benefit the lot is selected; otherwise the charges
 14 which may arise on such application shall be paid by such
 15 applicant. And the land so taken shall be held and used
 16 for no other purpose than that contemplated in this chapter,
 17 and shall revert to the owner, his heirs, or assigns, upon
 18 the discontinuance thereon for two years of such school, as
 19 is required of the town or district.

may be tried by
 jury; land to
 revert to owner
 in case of
 discontinuance.

1854, c. 104, § 8.

SECT. 38. Whenever any school district shall vote to
 2 erect or re-construct a school house, the plan of the same
 3 shall first be submitted to the superintending school com-
 4 mittee of the town for their approval.

Plan, &c., to be
 approved by
 superintending
 school
 committee.
 1850, c. 193, art.
 2, § 15.

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

District may
 determine what
 proportion of
 money may be
 used for a school
 taught by a
 female.

1850, c. 193, art.
 2, § 16.

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

Ages of admis-
 sion to school of
 master or
 mistress.

1850, c. 193, art.
 2, § 17.

SECT. 41. Each school district, where the number of
 2 scholars attending school is such as to require more than
 3 one school to be kept at the same time, shall have the pow-
 4 er of choosing a committee to determine, what description
 5 of scholars shall attend each school, to classify said scholars
 6 and to transfer them from school to school in said district,
 7 and when no such committee shall be chosen by any school

To choose a
 committee in
 certain cases.

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1850, c. 193, art.
2, § 18.

Districts may
purchase
libraries.

1850, c. 193, art.
2, § 19.

Adjacent dis-
tricts may unite
for purchase of
libraries.

1850, c. 193, art.
2, § 20.

Rules and
regulations for
library.

1850, c. 193, art.
2, § 21.

Clerk to certify
to assessors
amount of
money voted to
be raised.

1850, c. 193, art.
3, § 1.

Assessors to
assess the same
within thirty
days.

1850, c. 193, art.
3, § 2.

Mode of
collection.

8 district, the superintending school committee of the town
9 shall have all the powers and perform all the duties above
10 mentioned.

SECT. 42. Any school district is hereby authorized to pur-
2 chase, with any money that may be appropriated to said
3 district for school purposes, a school library and apparatus,
4 or either, for the use of the school: *provided*, a majority of
5 the district shall so vote. But there shall not be expended
6 in one year more than ten per centum of the whole amount
7 appropriated to any district in the year.

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

SECT. 44. Every district, that purchases a library and
2 apparatus or either as aforesaid, shall make such rules and
3 regulations for the preservation and management of the
4 same, as they may deem proper.

ARTICLE III. *Assessment and collection of money raised or borrowed by school districts.*

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

SECT. 46. Within thirty days after receiving the certifi-
2 cate of the clerk, the assessors of such town shall assess in
3 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 moneys voted to be
8 raised by the inhabitants of such district for the purposes
9 aforesaid: *provided*, that no inhabitant shall be taxed for
10 any real estate not lying within such district.

SECT. 47. Said assessors shall make their warrant in due
2 form of law directed to any one of the collectors of their
3 town, or of said district, or a constable if there be no col-
4 lector, requiring and empowering said collector or consta-
5 ble to levy and collect the tax so assessed and pay the
6 same within the time limited by the warrant to the treas-

7 urer of the same town; to whom the assessors shall give a
8 certificate of the assessment as in the case of town taxes.

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

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

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

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

SECT. 52. The assessors collector and treasurer shall be
2 allowed by the school district, for assessing, collecting, and
3 receiving and paying any district tax, or tax to pay install-
4 ments of borrowed money as herein provided, a compensa-
5 tion proportionate to what they receive for similar service
6 for town taxes.

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

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

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

SECT. 56. The district may appoint an agent or agents to
2 contract a loan as aforesaid, who are authorized to bind the
3 district therefor, and to give the necessary evidences of
4 debt therefor, and a copy of such evidence of debt or secu-
5 rity shall be by such agent or agents filed with the town
6 clerk of the town, and the clerk shall enter the same on the
7 town records. The money procured on such loan shall be
8 received by the treasurer of the town, and shall be applied

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1850, c. 193, art.
3, § 3.

Powers of
collectors.
1850, c. 193, art.
3, § 4.

Powers of town
treasurers in
such cases.

1850, c. 193, art.
3, § 5.

Abatement of
taxes.
1850, c. 193, art.
3, § 6.

Sums collected
to be at disposal
of district
committee.
1850, c. 193, art.
3, § 7.

Compensation of
assessors,
collectors and
treasurer.

1850, c. 193, art.
3, § 8, 14.

When school
districts may
borrow money.

1850, c. 193, art.
3, § 9.

Term of loan
and mode of
payment.
1850, c. 193, art.
3, § 10.
1852, c. 233.

Clerks to notify
assessors and
treasurer.
1850, c. 193, art.
3, § 10.

Agents may be
appointed to
contract a loan.

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1850, c. 193, art.
3, § 12.

Annual install-
ments to be
assessed.

1850, c. 193, art.
3, § 13.

Loans to be
made only as
herein provided
1850, c. 193, art.
3, § 15.

Districts may
elect a collector.

1850, c. 193, art.
3, § 16.

His compensa-
tion.

1850, c. 193, art.
3, § 17.

Copy of record
of his election to
be filed with
town clerk.

1850, c. 193, art.
3, § 18.

In certain cases
no collector to be
elected.

9 and paid out for the purposes aforesaid in the same manner,
10 as is provided in case of money raised for the same purpose
11 by taxation.

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

SECT. 58. No school district shall be authorized to bor-
2 row money, except for the purposes and under the regula-
3 tions herein prescribed.

SECT. 59. Whenever any money shall be voted to be
2 raised by any school district in accordance with the pro-
3 visions herein contained, the legal voters of said district at
4 any legal meeting called for the purpose may elect by writ-
5 ten ballot a collector, who shall be required to give bonds
6 to the inhabitants of such district with sufficient sureties to
7 be approved by the selectmen, and shall have the same
8 powers, and be held to proceed in the same manner in col-
9 lecting the taxes assessed upon said district, as in the col-
10 lection of town taxes by a town collector.

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

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

SECT. 62. The provisions of the three preceding sections
2 for the choice of collectors by school districts shall not

3 apply to any school district where the sum voted to be CHAP. 11.
 4 raised and assessed shall not exceed the sum of three hun- 1850, c. 193, art.
 5 dred dollars. 3, § 19.

ARTICLE IV. *School districts formed from two or more towns.*

SECT. 63. When it shall be found convenient to form a
 2 school district from parts of adjoining towns, such towns Formation of
 3 respectively concurring therein may establish such district districts from
 4 and determine the limits thereof; and such towns by their two or more
 5 concurrent votes may alter and discontinue the same; and towns.
 6 they and their officers, except as otherwise herein provided,
 7 may exercise all the powers and duties in reference to such
 8 districts as may be exercised by any town in reference to
 9 school districts within its own limits: *provided*, that where
 10 such district formed from two or more towns has existed
 11 for the term of fifteen years, either town may disconnect its
 12 own inhabitants from such district without the concurrence
 13 of the other town or towns—*provided, further*, that all dis- 1850, c. 193, art.
 14 trict property shall be left within the limits of and belong 4, § 1.
 15 to the original district.

SECT. 64. Every district established by two or more
 2 towns shall choose its own agent annually, and his contracts Such districts to
 3 shall be binding upon such towns respectively in proportion choose their
 4 to and not exceeding the amount, which each town is own agents.
 5 required to pay to such agent under the provisions of this 1850, c. 193, art.
 6 article. 4, § 2.

SECT. 65. The assessors of each town from, which any
 2 part of such district shall have been formed, shall assign to Assessors of each
 3 such district a proportion of the money by law to be dis- town to assign
 4 tributed among the districts in such town according to the to such districts
 5 number of children belonging to such town within the limits its proportion of
 6 of said school district. And when any district is so formed, money.
 7 the powers specified in sections thirty-four and thirty-five Location of
 8 to be exercised by any town, or selectmen, or superintend- school houses.
 9 ing school committee, may be exercised by the concurrent
 10 vote of said towns, or the joint acts of the selectmen or
 11 superintending school committees of such towns, and appli-
 12 cation shall be made to each of them accordingly. And
 13 the provisions of sections thirty-six and thirty-seven shall 1850, c. 193, art.
 14 also apply to such districts. 4, § 3.

SECT. 66. When any school district shall be formed from
 2 parts of two or more towns as aforesaid, the superintend- How such
 3 ing school committee, selectmen, assessors, treasurer, col- districts shall be
superintended.

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1850, c. 193, art.
4, § 4.
1854, c. 80.

Powers and
duties of officers
of such districts.

1850, c. 193, art.
4, § 5.

4. lector and constable of the town, in which the school-house
5 of such district is situated or has been located, or in which
6 the school of such district is kept, or if there be no such school
7 house or school, the aforesaid officers of the oldest towns,
8 from which any part of such district shall have been taken,
9 shall in respect of such district have all the powers and
10 perform all the duties, and be deemed to all intents to stand
11 in the place of such officers in respect to school districts
12 situated wholly in any one town; and the assessors afore-
13 said shall assess all taxes voted by said district according
14 to a valuation made by themselves for that purpose, which
15 shall be uniform throughout said district.

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

ARTICLE V. *Powers and duties of superintending school committees.*

Powers and
duties of
superintending
school
committees.

SECT. 68. All superintending school committees shall per-
2 form the following duties, to wit:
3 *First*—To appoint a person to supply any vacancy occur-
4 ring in their board until the next annual town meeting;
5 and when by reason of resignation, removal, or death, there
6 shall be but one member of the committee in office, he shall
7 have power and it shall be his duty to fill said vacancy.
8 *Second*—To appoint suitable times and places for the pur-
9 pose of examining all candidates proposing to teach in
10 town; said candidates shall produce satisfactory evidence,
11 that they sustain a good moral character and possess a tem-
12 per and disposition suitable to be instructors of youth.
13 *Third*—To examine such candidates in reading, spelling,
14 writing, English grammar, geography, history, arithmetic,
15 and other branches usually taught in public schools, and
16 particularly in the school for which such persons are exam-
17 ined; and also as to capacity for the government and dis-
18 cipline of said school. And if on such examination such
19 persons are found competent, said committee shall grant a
20 certificate, that such persons are qualified to govern said
21 school, and to instruct in the branches above named and
22 such other branches as are necessary to be taught in said
23 school.
24 *Fourth*—To direct the general course of instruction, and
25 what books shall be used in the respective schools.

26 *Fifth*—To visit and inspect the several schools, and inquire
 27 into the regulations and discipline thereof, and of the pro-
 28 ficiency of the scholars therein; and to use their influence
 29 and best endeavors, that the youth in the several districts
 30 regularly attend the schools; and particularly to provide,
 31 that one or more of the board shall visit each school within
 32 the town at least twice during the term, for which it is kept.
 33 *Sixth*—After due notice and a candid investigation of the
 34 facts to dismiss any schoolmaster or mistress, who shall be
 35 found in their opinion incapable or unfit to teach, or whose
 36 services are believed by them to be unprofitable to such
 37 school, notwithstanding their having procured the requisite
 38 certificate; *provided*, that such dismissal shall not operate
 39 to deprive such master or mistress of their right to com-
 40 pensation for services previous to such dismissal; and said
 41 committee shall immediately give notice thereof in writing
 42 to the agent of the district, and shall also deliver or cause
 43 to be delivered to such teacher, a certificate of dismissal
 44 under their hands stating the reasons of such dismissal, a
 45 copy of which they shall preserve.
 46 *Seventh*—To expel from any school any obstinately diso-
 47 bedient and disorderly scholar after a proper investigation
 48 of his behavior, if found necessary for the peace and use-
 49 fulness of the school; also to restore him to the school on
 50 satisfactory evidence of his repentance and amendment.
 51 *Eighth*—To exclude, if they deem expedient, from the
 52 public schools of the several towns all those persons enti-
 53 tled by law to admission thereto, who shall not have been
 54 vaccinated.
 55 *Ninth*—To make a written report at the annual meeting
 56 next after their appointment of the standing of, and progress
 57 made in, the several schools in the various branches of learn-
 58 ing therein taught, and the success which may have attended
 59 the mode of instruction and government of their respective
 60 teachers.

1850, c. 193, art.
5, § 1.

SECT. 69. The superintending school committee of the
 2 several towns shall annually make out a statement contain-
 3 ing the following particulars:

Annual return.

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

8 *Second*—The number of school districts, and parts of dis-
 9 tricts, in their towns respectively.

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

13 *Fourth*—The number of children between the ages above
 14 specified, who reside upon islands or in any other part of
 15 the town not classed with any district.

16 *Fifth*—The whole number of scholars attending the sum-
 17 mer schools,—the average number of scholars attending the
 18 summer schools,—the whole number of scholars attending
 19 the winter schools,—the average number of scholars attend-
 20 ing the winter schools.

21 *Sixth*—The average length of the summer schools in
 22 weeks,—the average length of the winter schools in weeks,—
 23 the average length of the schools for the year.

24 *Seventh*—The number of male teachers, who have been
 25 employed in the public schools during any part of the year,—
 26 the number of female teachers, who have been so employed.

27 *Eighth*—The wages of male teachers per month exclusive
 28 of board,—the wages of female teachers per week exclusive
 29 of board.

30 *Ninth*—And said committee in said returns shall give full
 31 and complete answers to the inquiries contained in the
 32 blank forms, which shall be furnished to them under the
 33 provisions of law; and they shall certify, that such state-
 34 ment is true and correct according to their best knowledge
 35 and belief, and shall transmit the same to the office of the
 36 secretary of state on or before the first day of April in
 37 each year; and when by reason of removal, resignation, or
 38 death, there shall be but one member of the committee left,
 39 it shall be his duty to make said returns. And in any

1850, c. 193, art.
 6, § 2.
 1852, c. 273.
 1853, c. 9.
 1853, c. 9, § 2.

40 plantation where no superintending school committee has
 41 been elected, the assessors or clerk may make the required
 42 returns.

Parents, masters
 and guardians
 compelled to
 furnish neces-
 sary books.

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

1850, c. 193, art.
 6, § 3.

ARTICLE VI. *Powers and duties of school agents.*CHAP. 11.

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

Powers and
duties of school
agents.

6 *First*—In the month of March or April annually to call
7 district meetings for the choice of agents and for other
8 business by causing notice so to be given, as provided in
9 the twenty-second and twenty-third sections of article sec-
10 ond of this chapter.

11 *Second*—To hire the school masters or mistresses for their
12 respective districts from the money assigned to them by
13 the assessors of their towns and from any other funds
14 placed at their disposal for the purpose.

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

22 *Fourth*—Before the commencement of any term of such
23 schools to give notice to a member or members of the
24 superintending school committee of the town of the time,
25 when the school is to commence; whether to be kept by a
26 master or mistress; and for how long a time such instructor
27 is engaged.

28 *Fifth*—To return to the selectmen of the town prior to
29 the expiration of his term of service an account of his
30 expenditures by virtue of the authority herein granted
31 accompanied with the necessary vouchers therefor.

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

1850, c. 193, art.
6, § 1.

CHAP. 11.

Duty of agent to expend money assigned to his district; if he does not, special agent may be appointed.

SECT. 72. It shall be the duty of each school agent to
 2 expend the money apportioned to his district for the sup-
 3 port of schools taught by instructors duly qualified in said
 4 district within the year for which such agent may have been
 5 chosen; and if any such agent shall refuse or neglect so to
 6 expend said money, so far as may be practicable, the
 7 municipal officers of the town, in which such district is
 8 situated, may on complaint by any inhabitant of said dis-
 9 trict and after due notice and investigation appoint a special
 10 agent to expend the money as aforesaid. The special agent
 11 so appointed shall be sworn in the same manner, as school
 12 agents are required to be sworn, and shall have all the
 13 powers and perform all the duties of school agent for said
 14 district. Any money received by any school agent for the
 15 use of the district and not appropriated by him to the use
 16 of said district during his term of office or before the
 17 appointment of such special agent may be recovered from
 18 him in an action of the case commenced since April twentieth
 19 eighteen hundred and fifty-four. Any action brought to
 20 recover money received by any school agent for the use of
 21 the district may be maintained in the name of the town or
 22 district.

1854, c. 104, § 3.
 Art. 14, Feb.
 1856.

Penalty, if agent neglects to give notice to committee when school is to commence.

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

1855, c. 150.

ARTICLE VII. *Duties and qualifications of instructors.*

Teacher to keep school register.

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

14 deposited with the school committee, or with such persons as
15 they may designate to receive it.

CHAP. 11.

1850, c. 193, art.
7, § 1.

SECT. 75. It shall be the duty of the presidents, profess-
2 ors, and tutors, of colleges, and of the preceptors and
3 teachers of academies, and all other instructors of youth,
4 whether in public or private institutions, to take diligent
5 care and exert their best endeavors to impress on the minds
6 of the children and youth committed to their care and in-
7 struction the principles of morality and justice, and a sacred
8 regard to truth; love to their country, humanity, and a uni-
9 versal benevolence; sobriety, industry, and frugality; chas-
10 tity, moderation, and temperance; and all other virtues,
11 which are the ornaments of human society. And it shall
12 be the duty of such instructors to endeavor to lead those
13 under their care, as their ages and capacities will admit,
14 into a particular understanding of the tendency of the be-
15 forementioned virtues to preserve and perfect a republican
16 constitution, and secure the blessings of liberty, as well as
17 to promote their future happiness; and the tendency of the
18 opposite vices, to slavery, degradation, and ruin.

Instructors of
colleges, &c., to
inculcate
morality and
virtue.

1850, c. 193, art.
7, § 2.

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

Forfeiture for
teaching without
certificate.

1850, c. 193, art.
7, § 3.

ARTICLE VIII. *Relating to schools in certain plantations.*

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

Powers of
plantations to
establish school
districts.

1850, c. 193, art.
8, § 1.

SECT. 78. Such plantations shall have the same powers
2 and be subject to the same liabilities as towns for the pur-

Authorized to
raise money for
schools.

CHAP. 11.

1855, c. 175, § 1.

To assess and
collect tax, &c.
1855, c. 175, § 2.Assessors to call
district
meetings.1850, c. 193, art.
8, § 3.Violated bonds
may be
prosecuted.1850, c. 193, art.
8, § 4.Power to raise
money for school
house.
1850, c. 193, art.
8, § 7.Manner of
calling district
meetings, and
authority to
raise money.1850, c. 193, art.
8, § 8.Valuation to be
taken.1850, c. 193, art.
8, § 9.Assessment and
collection of tax.
1850, c. 193, art.
8, § 10.

3 pose of erecting school districts, raising, assessing, and col-
4 lecting school money, and for electing officers for schools.

SECT. 79. The amount so raised shall not exceed one dol-
2 lar for each inhabitant.

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

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

SECT. 82. All school districts in such plantations shall
2 have power to raise money to hire, buy, or build, a suitable
3 school house for the benefit of the district.

SECT. 83. All school district meetings shall be called by
2 the assessors of the plantation on the written application
3 of three or more of the legal voters of such district stating
4 the reason and objects of their proposed meeting; and at
5 such meeting the inhabitants of said district shall have
6 power to raise money for the purposes stated in the eighty-
7 second section.

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

SECT. 85. The assessors shall assess the tax and commit
2 the same to the collector, who shall collect it and pay it
3 over to the treasurer.

ARTICLE IX. *Superintendent of common schools, and county
conventions of teachers.*

SECT. 86. There shall be appointed by the governor and
2 council a superintendent of common schools, who shall be

Appointment
and term of
office.

3 duly sworn, and whose term of office shall continue for CHAP. 11.
 4 three years or during the pleasure of the executive; and
 5 on the occurrence of a vacancy in said office a new appoint- 1854, c. 89, § 1.
 6 ment shall be made for a like term.

SECT. 87. It shall be the duty of the superintendent to Duties of
superintendent.
 2 devote his time to the improvement of common schools and
 3 the promotion of the general interests of education in this
 4 state. He shall carefully investigate the operation of our
 5 school laws; collect information in regard to the arrange-
 6 ment of school districts, the location and construction of
 7 school houses and the use of the best school apparatus;
 8 consult and advise with superintending school committees
 9 on the selection of text books adapted to the wants of
 10 schools, and on the methods of ascertaining the qualifica-
 11 tions of teachers, and of visiting and examining schools,
 12 inquire into the most approved modes of teaching, and the
 13 best means of training and qualifying teachers for their
 14 duties; examine the returns made by superintending school
 15 committees to the office of the secretary of state, and
 16 obtain from them such facts and statistics as may be useful,
 17 and in general procure information from every available 1854, c. 89, § 2.
 18 source for the improvement of common schools.

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

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

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

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

CHAP. 11.Duty of school
committees.

1854, c. 89, § 7.

Teachers'
conventions.

1854, c. 89, § 8.

Duties of
superintendent,
in regard to.

1854, c. 89, § 9.

How expenses
to be defrayed.

1854, c. 89, § 10.

Forfeitures, how
recovered and
appropriated.1850, c. 193, art.
10, § 1.Penalty for
wrong
appropriation.1850, c. 193, art.
10, § 2.Permanent
school fund,

SECT. 92. It shall be the duty of all superintending school committees supervisors and district committees, whose annual reports shall be printed, to forward copies thereof to the superintendent.

SECT. 93. The superintendent shall hold annually in each county a teachers' convention to continue in session one week at least; and it shall be his duty to give due notice of such convention to all teachers and persons proposing to become such, and to invite their attendance for the purpose of mutual consultation discussion and instruction; and for that of receiving lectures and addresses on subjects relating to education and the duty of teachers.

SECT. 94. The superintendent shall attend and have the charge of each convention; and shall employ suitable instructors and lecturers to instruct and address those, who may there assemble, with the view of aiding them in qualifying themselves for a better and more successful discharge of their duties as teachers.

SECT. 95. For the purpose of defraying the expenses of the teachers' conventions there shall be annually appropriated the sum of two thousand dollars to be expended by the superintendent; and he shall render to the governor and council an account of his expenditure of said appropriation to be by them examined and audited.

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

SECT. 96. All forfeitures and penalties for the breach of any of the provisions of this chapter shall be recovered by indictment before any court of competent jurisdiction; and it shall be the duty of all grand jurors to make due presentment thereof in all cases, that shall come to their knowledge; and such penalty when recovered shall be paid into the treasury of the town, where the same was incurred, for the support of schools therein in addition to the amount required by law to be raised; but the costs of prosecution when recovered shall be paid into the county treasury.

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

SECT. 98. The treasurer of state shall keep a separate account of all moneys, he may have received or may here-

CHAP. 11.

how appropriated.

3 after receive from the sales of land, which have been, or
4 which may hereafter be appropriated by law for the support
5 of the primary or common schools in this state, or from
6 the notes taken therefor, and also of any other moneys,
7 which may be appropriated for the same purpose; and the
8 same shall constitute a permanent school fund. This fund
9 may be put out on interest in such manner as the legisla-
10 ture shall determine. And a sum of money, which shall be
11 equal to six per centum of the whole amount of said per-
12 manent school fund, shall be annually appropriated to the
13 support of common schools, and shall be annually distribu-
14 ted amongst the several cities, towns, and plantations,
15 according to the number of children therein between the
16 ages of four and twenty-one years.

1854, c. 104, § 6.

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

Bank tax, how appropriated.
1850, c. 193, art. 10, § 4.

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

Secretary of state to notify when returns have not been received, and to furnish treasurer with a list of scholars.

1853, c. 9, § 2, 4.

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

Treasurer to apportion school funds, basis of apportionment, when returns not received, not to be paid till returns are made.

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1853, c. 9,
§ 5, 6, 7, 8.

Secretary to
furnish blanks.

1850, c. 193, art.
10, § 7.

Tenure of office
of presidents of
colleges.

1850, c. 193, art.
10, § 8.

Graduation fees
to be paid into
college treasury.

1850, c. 193, art.
10, § 9.

Innholders and
certain others
not to give
credit to
students.

1850, c. 193, art.
10, § 10.

Persons violating
said provisions
not to be
licensed.

1850, c. 193, art.
10, § 11.

Forfeiture for
such violation.

1850, c. 193, art.
10, § 12.

Penalty for
disturbing
schools.

17 not made returns for the year, shall not be paid till said

18 returns are made to the secretary of state.

SECT. 102. The secretary of state on or before the first
2 day of October annually shall furnish to the superintending
3 school committees the blank forms required by law to be
4 used in making school returns.

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

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

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

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

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

SECT. 108. If any person, whether he be a scholar or
2 not, shall enter any school house or other place of instruc-
3 tion during or out of school hours, the teacher or any of
4 the pupils being therein, and shall willfully interrupt or dis-
5 turb the teacher or pupils by loud speaking, rude, or inde-
6 cent behavior, signs or gestures; or if any person shall

CHAP. 12.

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

1850, c. 193, art.
 10, § 13.
 1853, c. 128.

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

Parents or
 guardians liable
 for injuries to
 buildings or
 property of
 districts by a
 minor.

1850, c. 193, art.
 10, § 14.

SECT. 110. The provisions of law for the satisfaction of
 2 executions issued against towns are applicable to execu-
 3 tions issued against school districts.

Executions may
 be enforced, &c.
 1850, c. 193, art.
 10, § 16.

Chapter 12.

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

ARTICLE I. *Parishes.*

Sect. 1. Mode of calling a meeting to form a parish.

2. Organization; name; declared a parish.

3. Power to hold property and establish by-laws.

4. Annual and other meetings. Officers.

5. Powers of moderator.

6. When meetings may be called.

7. How meetings called, if assessors refuse.

8. For what purposes parishes may raise money.

9. How assessed on pews.

10. Payment enforced by sale of pews.

11. Owner may direct as to appropriation of his pew tax.

12. Parishes may procure insurance on meeting-houses; in case of loss, insurance, how applied.

13. Manner of admission to a parish.

14. Membership of local parish, deriving funds from the state, and not deriving funds from the state.

15. How to withdraw from a parish.

- CHAP. 12.** *Sect. 16.* Persons leaving parishes liable for moneys previously raised.
17. No person compelled to belong to a parish.
 18. Territorial parishes not hereby dissolved.
 19. When a parish is set off from a town the remainder to constitute first parish.
 - 20, 21, 22. Grants and donations for pious uses, how vested.
 - 23, 24. Power to convey such lands,
 25. Limitation as to amount of such property.
 26. Records of parishes open to inspection.
 27. Parishes may appoint their treasurer to collect taxes.
 28. May authorize abatements for prompt payment.
 29. Assessors to give a warrant to such treasurer.
 30. Overseers of monthly quaker meetings to hold grants as a corporation.
 31. To hold grants made to quarterly monthly meetings.
 32. Legislature may modify these powers.

ARTICLE II. *Meeting houses.*

- Sect. 33.* Persons may incorporate themselves to hold a meeting house.
34. Owners may incorporate themselves for the purpose of repairing meeting houses.
 35. Owners may repair or dispose of meeting houses. Warrant for calling meeting.
 36. Appraisal, proceeds of sale, how disposed of; pews, how disposed of, in case of repairing or re-building; taxes may be raised and agents appointed to make sale.
 37. Meetings, how called, in certain cases.
 38. Proprietors dissenting, entitled to appraised value of their interest.
 39. Owners of meeting houses and of pews therein may incorporate themselves.
 40. Mode of calling a meeting for that purpose.
 41. Manner of organizing and becoming incorporated.
 42. Corporate rights and powers.
 43. Minority of different denomination may have division of time, and how obtained.
 44. Mode of proceeding.
 45. Proportion of minority to be appraised.
 46. Expenses, how paid.
 47. Minority may occupy their portion of time unless majority will purchase.

ARTICLE III. *Ministerial and school lands, and funds arising therefrom.*

- Sect. 48.* Fee in ministerial lands, how vested.
49. Fee in school lands, how vested.
 50. Selectmen, town clerk, and treasurer to be trustees.
 51. Trustees shall choose their officers annually.
 52. Powers of such trustees.
 53. Funds to be placed on interest.
 54. Trustees may hold estate for use of the ministry.
 55. Also for use of schools.
 56. Income of funded property, how applied.
 57. How expended. Town still liable to raise school taxes.
 58. Incorporated trustees may transfer funds to selectmen, clerk and treasurer by consent of the town.
 59. Trustees to account annually to the town.
 60. If lands are vested in a parish the assessors, clerk and treasurer to be trustees.
 61. First meeting of trustees, how called.

ARTICLE I. *Parishes and ministerial lands.*

- SECT. 1.** Any persons of the age of twenty-one years or 2 more desirous of becoming an incorporated parish or religious society may apply to a justice of the peace of the

Mode of calling
a meeting to
form a parish.

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4 peace of the county, in which a majority of them reside,
 5 who shall issue his warrant to one of them directing him
 6 to notify the other applicants to meet at some proper place
 7 expressed in such warrant; and he shall give notice of such
 8 meeting seven days at least before holding the same by
 9 posting a notification thereof on the outer door of the
 10 meeting house or place of public worship of such society, if
 11 any there be, otherwise at such place as the justice may
 12 appoint.

R. S., c. 18, § 1.

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

Organization;
name; declared
a parish.

R. S., c. 18, § 2.

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

Power to hold
property and
establish
by-laws.

R. S., c. 18, § 3.

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

Annual and
other meetings.
Officers.

11 The assessors shall manage the prudential concerns of the
 12 parish, where no other persons are appointed for that pur-
 13 pose, and shall be duly sworn.

R. S., c. 18, § 4.

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

Powers of
moderator.
R. S., c. 18, § 5.

SECT. 6. When five members of any parish shall in writ-
 2 ing request the assessors to call a meeting, or insert any
 3 particular article in the warrant for calling a parish meet-
 4 ing, it shall be their duty so to do.

When meetings
may be called.

R. S., c. 18, § 6.

SECT. 7. When assessors unreasonably refuse to call a
 2 meeting of the parish or insert an article requested as
 3 stated in the preceding section, any justice of the peace in the
 4 county on the written application of five or more members

How meetings
called, if
assessors refuse.

CHAP. 12.

R. S., c. 18, § 7.

For what
purposes
parishes may
raise money.

5 thereof may issue his warrant to one of the applicants, who
6 shall notify such meetings in the manner prescribed in the
7 first section, or the manner agreed on by vote, if any such
8 exists.

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

R. S., c. 18, § 8.

How assessed
on pews.

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

R. S., c. 18, § 9.

Payment
enforced by sale
of pews.

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

R. S., c. 18, § 10.

Owner may
direct as to
appropriation of
his pew tax.

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

R. S., c. 18, § 11.

Parishes may
procure insur-
ance; in case of
loss, how
applied.

SECT. 12. Any parish in the actual occupancy of any
2 church, meeting house, or other building used for religious
3 purposes may cause such church meeting house or other
4 building to be insured against loss by fire, and such occu-

CHAP. 12.

5 pancy shall be deemed in law a sufficient interest therein to
 6 authorize such insurance. And in case of loss by fire the
 7 company insuring under this provision shall not be permit-
 8 ted to deny the occupancy by the parish effecting the insur-
 9 ance, its legal existence, or its right to maintain an action
 10 upon the policy as a parish. And any amount received by
 11 any parish on any such policy shall be held by such parish
 12 in trust for the purpose of repairing or restoring the build-
 13 ing and shall be applied accordingly.

1850, c. 201,
 § 1, 2, 3.

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

Manner of
 admission to a
 parish.
 R. S., c. 18, § 12.

SECT. 14. Any person becoming of age and residing
 2 within the limits of any local parish holding funds derived
 3 from the state or Commonwealth of Massachusetts, or
 4 removing into such parish after being of age, shall be
 5 deemed a member thereof, until he voluntarily dissolves the
 6 connection. And any person becoming of age and residing
 7 within the limits of any local parish or moving into the
 8 same such parish not deriving funds from the state may
 9 become a member thereof by giving notice in writing to the
 10 clerk thereof of his intention so to do within one year after
 11 his becoming of age or removal thereto.

Membership of
 local parish,
 deriving funds
 from the state,
 and not deriving
 funds from the
 state.

R. S., c. 18,
 § 13, 18.

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

How to with-
 draw from a
 parish.

R. S., c. 18, § 14.

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

Persons leaving
 parishes liable
 for moneys
 previously
 raised.
 R. S., c. 18, § 15.

SECT. 17. No person shall be compelled to join or be
 2 classed with any religious society or parish without his con-
 3 sent.

No person com-
 pelled to belong
 to a parish.
 R. S., c. 18, § 16.

SECT. 18. No territorial parish shall be dissolved by the
 2 provisions of this chapter.

Territorial par-
 ishes not hereby
 dissolved.
 R. S., c. 18, § 17.

SECT. 19. When one or more parishes shall be set off
 2 from a town, or incorporated within its limits in the manner
 3 prescribed in this chapter, the remaining part of the town
 4 shall constitute the first parish.

Parish set off
 from town,
 remainder to
 constitute first
 parish.
 R. S., c. 18, § 19.

CHAP. 12.

Grants and donations to pious uses, how vested.

R. S., c. 18, § 20.

Ministers, elders and deacons shall be deemed the corporation.

R. S., c. 18, § 21.

Ministers of parishes or officers of religious societies, defend the same.

R. S., c. 18, § 22.

Power to convey such lands.

R. S., c. 18, § 23.

Alienation not valid longer than continuance in office of alienors.

R. S., c. 18, § 24.

Limitation as to amount of such property.

R. S., c. 18, § 25.

Records of parishes open to inspection.

R. S., c. 18, § 26.

Parishes may appoint their treasurer to collect taxes.

R. S., c. 18, § 27.

SECT. 20. The deacons of all protestant churches, not being episcopal churches, and the church wardens of episcopal churches, are and shall be deemed so far bodies corporate, as to take in succession all grants and donations, whether real or personal made either to their several churches or to them and their successors.

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

SECT. 22. The minister or ministers of every parish or religious society of every denomination, and the deacons, elders, trustees, stewards, and other presiding officers, of every religious society or church having by its usages no settled minister, shall be capable of taking in succession any estate granted to the minister and his successors, or for the use of the ministry, or the poor of the church, and of prosecuting and defending all suits respecting the same.

SECT. 23. No alienation of any such estate by any minister shall be valid any longer, than during such alienor's continuing in the ministry.

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

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

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

SECT. 27. When any parish or religious society at any legal meeting shall vote for any legal purpose any sum of money, and assess the same on the polls and estates of the members thereof, such parish or society may appoint their treasurer a collector of taxes with like power as is provided for a treasurer of a town, who has been appointed a collector of said town according to the provisions of law.

CHAP. 12.

May authorize
abatements for
prompt payment.

SECT. 28. Such parish or society may by vote authorize
2 similar abatements upon taxes to be paid to such collector
3 and treasurer or his deputy within such periods, as the
4 parish or society may in legal meeting establish; and the
5 treasurer shall give like public notice of the parish votes;
6 and such taxes, as shall not be paid within the periods
7 above mentioned, or others agreed upon, shall be collected
8 by the treasurer in the same way, as town taxes in such
9 circumstances. R. S., c. 18, § 28.

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

Assessors to give
a warrant to
such treasurer.

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

Overseers of
monthly quaker
meetings to hold
grants as a
corporation.

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

To hold grants
made to quar-
terly monthly
meetings.

CHAP. 12.

Legislature may
modify these
powers.
R. S., c. 18, § 32.

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

ARTICLE II. *Meeting houses.*

Persons may
incorporate
themselves to
hold a meeting
house.

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

R. S., c. 19, § 1.

Owners may
incorporate
themselves for
the purpose of
repairing meet-
ing houses.

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

1846, c. 206.

Owners may
repair or dispose
of meeting
houses. Warrant
for calling
meeting.

SECT. 35. The owners of pews, or the proprietors of or in any meeting house in this state, are hereby empowered to repair, remodel, sell, and convey, their house and lot of land on which it stands, or the house without the land, or remove or rebuild the same, provided that a majority of the owners or proprietors of such house and land present at any legal meeting called for that purpose shall authorize the same. Such meeting may be called as provided in section forty of this chapter; or notice may be given by publishing said warrant in a newspaper published in the county, where said house is situated at least fourteen days before the day of meeting.

1855, c. 172, § 1.

Appraisal,
proceeds of sale,
how disposed of;
pews, how
disposed of, in
case of repairing
or rebuilding;
taxes may be
raised and agents
appointed to
make sale.

SECT. 36. Before any alteration or sale of any meeting house shall be made under the foregoing section, an appraisal of the relative value of the pews in said house shall be made by three discreet persons under oath to be elected by ballot at any legal meeting of said owners or proprietors; and in case a sale of said house and land shall be made, and it may be made at private or public sale, as shall be determined at the meeting aforesaid, the proceeds of said sale shall be applied, first, to pay the expenses of said sale, second, to the payment of all debts and just claims against said property; and the balance which may remain shall be paid to the pew owners or proprietors of said prop-

erty in proportion to their respective interests, as determined by the appraisal aforesaid. And if the majority of such owners or proprietors shall determine to alter or rebuild their said meeting house, the said appraisers shall, after the work of altering or rebuilding shall have been completed, assign to the pew holders in the former house pews to conform as near as practicable to those previously held by them; and the new pews may be sold under the direction of any legal meeting towards defraying the expenses of the repairs and alterations, or be otherwise disposed of as said proprietors or pew owners may determine at a legal meeting. The owners or proprietors aforesaid may, at any legal meeting as aforesaid, choose officers, raise and assess taxes on the pews in said houses, and collect the same for the sole purpose of making such repairs and alterations in their said houses, and may do all those things, which a parish can in virtue of the authority legally vested therein. And the proprietors or owners at their meeting aforesaid shall appoint some suitable agent or agents to make the sale and conveyance as aforesaid, or to make the repairs and alterations authorized by a legal meeting, and they may also appoint a treasurer or trustees to receive and distribute the proceeds of said sale in manner before provided.

1855, c. 172, § 2.

SECT. 37. When they are unable to call otherwise a legal meeting one may be called as provided in section forty of this chapter. And the meeting thus called shall be empowered to adopt such measures in regard to the objects so set forth, and appoint such officers to carry them into effect, as a majority of said owners or proprietors may at such meeting determine.

Meetings, how called, in certain cases.

1855, c. 172, § 3.

SECT. 38. If the owners or proprietors of any meeting house, which the major part owners shall by vote at a legal meeting determine to repair, remodel, or rebuild, shall dissent from the proceedings of such meeting, and shall decline to take any interest in the house, which may be so repaired, remodeled, or rebuilt, they shall be entitled to demand and receive of those, who may elect to make such alterations, the appraised value of their interest in said house and land, their proportion of the debts of said owners or proprietors being first deducted, to be recovered by an action for money had and received against the owners, who may so elect to make such alterations and repairs, by any person entitled to receive said proceeds. But such action shall not be

Proprietors dissenting, entitled to appraised value of their interest.

CHAP. 12.

14 commenced until thirty days after such demand, nor after
 15 the expiration of one year after notice shall have been
 16 given by an advertisement posted on said meeting house
 17 door and one other conspicuous place, in the precinct where
 18 it is situated, setting forth the names of the persons, to
 19 whom the money is to be paid, with the amount to each and
 20 time limited for the payment three weeks successively.
 21 And if the said sums of money shall not be demanded
 22 within said time, they shall be considered as forfeited to
 23 the uses of the owners or proprietors aforesaid, who have
 1855, c. 172, § 4. 24 made such repairs for parish purposes.

Owners of meet-
 ing houses and
 pews therein
 may incorporate
 themselves.

R. S., c. 19, § 4.

Mode of calling
 a meeting for
 that purpose.

SECT. 39. The owners of any meeting house or building
 2 erected for public worship together with the owners of the
 3 pews therein may be created bodies corporate in the man-
 4 ner and for the purposes hereinafter provided.

SECT. 40. Whenever a majority of the owners of any
 2 such building shall make application to a justice of the
 3 peace of the same county stating their desire to become a
 4 body corporate, he shall issue his warrant to one of the
 5 applicants directing him to notify the owners to meet at the
 6 time and place and for the purposes named in said warrant
 7 by posting up a certified copy of the same fourteen days
 8 in two public places in the town, where the building is sit-
 9 uate, one of which notices shall be posted on the principal
 R. S., c. 19, § 5. 10 outer door of such building.

Manner of
 organizing and
 becoming
 incorporated.

R. S., c. 19, § 6.

Corporate rights
 and powers.

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

SECT. 42. Such corporation may by a vote of a majority
 2 of its members use and control any meeting house or build-
 3 ing erected for public worship, of which they may be part
 4 or sole owners, in such manner as they please; *provided*,
 5 that nothing in the three preceding sections shall be con-
 6 strued to affect the rights of owners of such houses of
 7 worship, as have been or shall be built by different religious
 R. S., c. 19, § 7. 8 denominations.

Minority of
 different
 denominations
 may have
 division of
 time, and how
 obtained.

SECT. 43. When any house of public worship shall be
 2 owned by persons of different denominations, or by any
 3 organized society, in case such society or its members own
 4 pews to the number of five, any one or more of such own-
 5 ers being of the minority and owning not less than five

CHAP. 12.

6 pews may apply to a justice of the peace and quorum to
 7 obtain a division of the time of occupying the house; and
 8 the justice shall call a meeting of the owners of the house by
 9 posting up in a public place in or about the house a notice
 10 thirty days at least before the meeting; which shall state
 11 the time place and object of the meeting.

R. S., c. 19, § 8.
 1843, c. 145.

SECT. 44. At such meeting the owners, who may not be
 2 applicants, or if they refuse or neglect the justice who
 3 called the meeting, may designate another justice of the
 4 peace of the county, and the two justices may appoint a
 5 third person, who shall be disinterested and not an inhab-
 6 itant of the town in which the house is located, or belong-
 7 ing to the denomination of either of the parties interested;
 8 and such justices and third person shall constitute a board,
 9 before which the several owners may exhibit the amount
 10 they respectively own in the house; and the minority own-
 11 ing at least five pews and wishing to occupy the house some
 12 part of the time shall have that part allotted to them, as
 13 nearly as may be, in proportion to the amount owned in the
 14 house by the minority; and the board shall designate pre-
 15 cisely, which weeks in each year the minority shall occupy
 16 the house, if they see fit so to do; if not the majority may
 17 occupy the house.

Mode of
 proceeding.

1843, c. 31, § 2.
 1845, c. 164.

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

Proportion of
 minority to be
 appraised.

R. S., c. 19, § 10.

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

Expenses, how
 paid.

R. S., c. 19, § 11.

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

Minority may
 occupy their
 proportion of
 time unless
 majority will
 purchase.

R. S., c. 19, § 12.

CHAP. 12. ARTICLE III. *Ministerial and school lands, and funds arising therefrom.*

Fee in ministerial lands, how vested.

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

R. S., c. 20, § 1.

Fee in school lands, how vested.

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

R. S., c. 20, § 2.

Selectmen, town clerk and treasurer to be trustees.

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

R. S., c. 20, § 3.

Trustees shall choose their officers annually.

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

R. S., c. 20, § 4.

Powers of such trustees.

SECT. 52. Such trustees shall have power to sell and con-
2 vey all the ministerial and school lands belonging to their
3 respective towns and lying within the same, except such
4 parts as may have already vested as mentioned in the forty-
5 eighth section; and any deed of such land so sold duly exe-
6 cuted by the treasurer by order of the trustees shall pass
7 the estate.

R. S., c. 20, § 5.

Funds to be placed on interest.

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

R. S., c. 20, § 6.

Trustees may hold estate for use of the ministry.

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

R. S., c. 20, § 8.

Also for use of schools.

SECT. 55. Such trustees may so take and hold any such
2 property for the use of schools in their several towns, the
3 annual income of which shall not exceed the sums, which

4 their respective towns are by law bound to raise for the
5 use of schools therein.

CHAP. 12.

R. S., c. 20, § 9.

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

Income of
funded property,
how applied.

R. S., c. 20, § 10.

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

How expended.
Town still
liable to raise
school taxes.

R. S., c. 20, § 11.

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

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

1842, c. 31, § 3.
R. S., c. 20, § 13.

SECT. 59. At each annual meeting of the several towns
2 the respective trustees shall exhibit an account of their pro-
3 ceedings, and a statement of the funds receipts and expend-
4 itures, and of the application thereof to the uses required.

Trustees to
account
annually to the
town.
R. S., c. 20, § 13.

SECT. 60. In all cases where such lands have become
2 vested in any parish, the assessors clerk and treasurer for
3 the time being, where no other trustees for the same purpose
4 are already appointed, are hereby constituted a body cor-
5 porate and trustees of the ministerial fund in such parish
6 forever with like powers and under like liabilities, as select-
7 men town clerk and treasurer; and shall pay the annual
8 income and profits of such lands and interest on the pro-
9 ceeds of any sale of the same to the persons and uses
10 specified in the respective grants and reservations, under

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

CHAP. 13.

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

First meeting of
trustees, how
called.

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

11 which such lands have become so vested; and shall at each
12 annual meeting for choice of parish officers exhibit an account
13 of their proceedings, and a statement of funds receipts and
14 expenditures.

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

Chapter 13.**THE PRACTICE OF PHYSIC AND SURGERY.**

Practice of
physic and
surgery.

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

R. S., c. 22, § 1.

Restriction not
to apply to any
physician or
surgeon who had
commenced
practice previous
to Feb. 16, 1831.

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

R. S., c. 22, § 2.

Chapter 14.**PREVENTION OF CONTAGIOUS SICKNESS.**

- Sect. 1.* Precautions against infected persons.
2. Precautions against persons arriving from infected places.
3. Restrictions on such persons; may be removed if refractory.
4. Penalty if they return.
5. Precautions authorized in border towns.
6. Process for removal or separate accommodation of infected persons.
7, 8. Process for securing infected articles.
9. Powers of officers in executing such process.
10. Expenses, how paid.

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

SECT. 1. When any person shall be infected, or shall have
 2 been recently infected, with any disease or sickness danger-
 3 ous to the public health, the selectmen of the town, where
 4 such person may be, shall make provision in the manner
 5 they shall judge best for the safety of the inhabitants by
 6 removing such person to a separate house, if it can be done
 7 without great danger to his health, and by providing nurses
 8 and other assistants and necessities; which shall be at the
 9 charge of the person himself his parent or master if able,
 10 otherwise at the charge of the town to which he belongs.

Precautions
against
infected persons.

R. S., c. 21, § 1.

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

Precautions
against persons
arriving from
infected places

R. S., c. 21, § 2.

CHAP. 14.

Restrictions on
such persons;
may be removed
if refractory.

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

R. S., c. 21, § 3.

Penalty if they
return.

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

R. S., c. 21, § 4.

Precautions
authorized in
border towns.

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

R. S., c. 21, § 5.

Process for
removal or
separate
accommodation
of infected
persons.

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

R. S., c. 21, § 6.

Process for
securing
infected articles.

SECT. 7. Whenever on the application of the selectmen
2 of any town it shall be made to appear to any justice of
3 the peace, that there is just cause to suspect, that any bag-

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

R. S., c. 21, § 7.

SECT. 8. The said justice may also by the same warrant,
 2 if it shall appear to him necessary, require the said officers
 3 under the direction of the said selectmen to impress and
 4 take up convenient houses or stores for the safe keeping of
 5 such infected articles, and the same to cause to be removed
 6 to such houses or stores, or otherwise detained, until in the
 7 opinion of said selectmen they shall be freed from infection.

Justice may by
 warrant, if
 necessary,
 require officers
 to cause them to
 be removed to
 suitable places
 until freed from
 infection.

R. S., c. 21, § 8.

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

Powers of
 officers in
 executing such
 process.

R. S., c. 21, § 9.

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

Expenses, how
 paid.

R. S., c. 21, § 10.

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

Compensation
 for men or
 property
 impressed.

R. S., c. 21, § 11.

SECT. 12. Whenever any malignant infectious distemper
 2 shall prevail in any of the towns wherein the supreme judi-
 3 cial court or court of county commissioners are to be holden,
 4 the justices of the said courts are hereby empowered to
 5 adjourn and hold said courts in any town in said county
 6 by proclamation to be made in such public manner, as they
 7 shall judge best, as near to their usual place of meeting as
 8 in their opinion safety will permit.

Adjournment of
 courts because
 of danger from
 infection.

R. S., c. 21, § 12.

SECT. 13. Whenever any person confined in any common
 2 jail, house of correction, or workhouse, shall be attacked

Removal of
 infected

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prisoners from
places of
confinement.

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

R. S., c. 21, § 13.

Order for
removal, how
returned. Such
removal not an
escape.

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

R. S., c. 21, § 14.

Health commit-
tee, how chosen;
their duties.

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

R. S., c. 21, § 15.

If no committee
chosen, select-
men to perform
the duties.

1853, c. 4.

SECT. 16. If any town shall at its annual meeting omit to
2 choose a health committee or health officer, the selectmen
3 of such town shall be a health committee, and shall have
4 all their powers and perform all their duties.

May order
removal of
private nui-
sances; proceed-
ings thereon.

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

12 to the town by such owner or occupant or by such other CHAP. 14.
 13 person as may have caused or permitted the same. R. S., c. 21, § 16.

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

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

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

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

SECT. 22. Any person, who shall neglect or refuse to
 2 obey the orders and regulations of the said selectmen
 3 respecting the said quarantine, shall forfeit a sum not ex-
 4 ceeding five hundred dollars, or be imprisoned for a term
 5 not exceeding six months, or both at the discretion of the
 6 court having cognizance of the offense on prosecution by Penalty for breach thereof.
R. S., c. 21, § 21.
 7 indictment.

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Duty of pilots
to give notice
thereof.

R. S., c. 21, § 22.

Punishment for
violation or
evasion of
quarantine, after
notice.

R. S., c. 21, § 23.

Selectmen to
furnish signals.

R. S., c. 21, § 24.

Restriction of
persons visiting
vessels at
quarantine.

R. S., c. 21, § 25.

Health commit-
tee may exercise
authority of
selectmen,
relating to
quarantine

R. S., c. 21, § 26.

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

SECT. 24. When any master or commander of any vessel
2 shall come up to any seaport town aforesaid with his said
3 vessel after notice given to him by any person whatever,
4 that a quarantine has been directed by the said selectmen
5 for all vessels coming from the port or place, from which
6 said vessel sailed; or shall by false declarations or other-
7 wise fraudulently attempt to elude the directions of the said
8 selectmen; or shall land or suffer to be landed from his
9 vessel any person, apparel, bedding, goods, or merchan-
10 dise, without permission of the said selectmen, he shall
11 incur the like penalty, or suffer the like imprisonment, or
12 both, as is provided in the twenty-second section of this
13 chapter on like prosecution.

SECT. 25. The selectmen of every seaport town requiring
2 vessels to perform quarantine shall provide at the expense
3 of such town a suitable number of red flags of at least three
4 yards in length; and the master of every vessel ordered to
5 perform quarantine as aforesaid shall cause one of said flags
6 to be continually kept during the term of his quarantine at
7 the head of the mainmast of his vessel; and no person shall
8 go on board such vessel during said term unless by permis-
9 sion of said selectmen.

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

SECT. 27. In every seaport town aforesaid, where a health
2 committee or health officer may have been legally chosen,
3 such health officer may perform all the duties and exercise
4 all the authority, which the selectmen of such town may per-
5 form and exercise in requiring vessels to perform quarantine
6 under the provisions of this chapter.

SECT. 28. All expenses incurred on account of any person,
 2 vessel, or goods, under any quarantine regulations, shall be
 3 paid by such person, or the owner of such vessel or goods
 4 respectively.

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Quarantine
 expenses, how
 paid.
 R. S., c. 21, § 27.

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

Hospitals may
 be established.

R. S., c. 21, § 28.

SECT. 30. No such hospital shall be established or licensed
 2 within one hundred rods of any inhabited dwelling house
 3 situated in any adjoining town without the consent of the
 4 selectmen of such adjoining town.

Restrictions as
 to location
 thereof.

R. S., c. 21, § 29.

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

Restrictions on
 inoculation
 with the small
 pox.

R. S., c. 21, § 30.

SECT. 32. Whenever any hospital shall be so established
 2 or licensed, the physician, the persons inoculated or sick
 3 therein, the nurses, attendants, and all persons, who shall
 4 approach or come within the limits of the same, and all such
 5 furniture or other articles as shall be used or brought there,
 6 shall be subject to such regulations as may be made by the
 7 selectmen.

Physicians and
 others liable to
 hospital
 regulations.

R. S., c. 21, § 31.

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

Hospitals to be
 provided on
 breaking out of
 infectious
 diseases;
 regulations.

R. S., c. 21, § 32.

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Precautions to prevent the spread of such diseases.

R. S., c. 21, § 33.

Penalty for violation of hospital regulations by persons subject thereto.

R. S., c. 21, § 34.

Householders and physicians to give notice of infectious diseases under their care.

R. S., c. 21, § 35.

Forfeitures, how recovered and appropriated.

R. S., c. 21, § 36.

Towns may choose a board of health; their powers and duties.

R. S., c. 21, § 37.

Plantations to have the same powers as towns.

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

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

SECT. 36. Whenever any householder or any physician shall know, that any person under his care is taken sick of any disease dangerous to the public health, he shall immediately give notice thereof to the selectmen of the town, in which the diseased person may be; and if he shall neglect to give such notice, he shall forfeit a sum not less than ten, nor more than thirty dollars.

SECT. 37. All forfeitures mentioned in the preceding sections of this chapter, except when otherwise expressly provided, shall enure to the use of the town, where the offense shall have been committed.

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

SECT. 39. The provisions of this chapter in relation to towns are also extended to organized plantations, and the assessors of such plantations shall do the duties, and have the same powers, as the selectmen of the towns, and be subject to the same restrictions and penalties; and the same

6 penalties shall attach to persons, who may disobey their
7 authority.

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R. S., c. 21, § 33.

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

Vaccination
may be at the
expense of towns
and plantations.

R. S., c. 21, § 39.

SECT. 41. Towns may establish by-laws for the preserva-
2 tion of health, and for protection against infectious diseases.

By-laws may be
established.
1853, c. 149, § 2.

Chapter 15.

BURYING GROUNDS.

Sect. 1. Towns may purchase lands for burying grounds.

2. Proceedings to incorporate proprietors of burying grounds.

3. Mode of organization, as a corporation.

4. Grounds to be fenced within one year.

5. Towns and parishes to fence ancient burying grounds.

6. Penalty, if selectmen or other officers neglect their duty.

7. Grounds to be fenced, and unalienable and indivisible, except by unanimous consent. Description to be recorded.

8. Land appropriated by individual for burying ground exempt from attachment, and unalienable.

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

Towns may
purchase lands
for burying
grounds.
R. S., c. 23, § 1.

SECT. 2. Persons twenty-one years of age and upwards
2 desirous of incorporating themselves as a body politic for
3 the purpose of purchasing land for a burying ground may
4 incorporate themselves in the manner provided in the first
5 and second sections of chapter fifty-five.

Proceedings to
incorporate
proprietors of
burying grounds.

R. S., c. 23, § 2.

SECT. 3. The persons so assembled shall have the powers
2 and may proceed in the manner, provided in the third sec-
3 tion of the same chapter.

Mode of organ-
ization, as a
corporation.
R. S., c. 23, § 3.

SECT. 4. Every such corporation shall within one year
2 after its organization make a substantial fence around the
3 burying ground and keep the same constantly in repair on
4 penalty of a sum not exceeding one hundred dollars to be

Grounds to be
fenced within
one year.

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R. S., c. 23, § 4.

Towns and
parishes to fence
ancient burying
grounds.

R. S., c. 23, § 5.

Penalty, if
selectmen or
other officers
neglect their
duty.

R. S., c. 23, § 6.

Grounds to be
fenced, and
unalienable and
indivisible,
except by
unanimous
consent.
Description to
be recorded.

R. S., c. 23, § 7.

Land appropri-
ated by
individuals for
burying ground,
exempt from
attachment, and
unalienable.

1854, c. 129.

5 recovered on indictment; which sum shall be laid out under
6 the direction of the selectmen in keeping the fences in
7 repair.

SECT. 5. Each town, parish, or religious society, to which
2 any ancient or public burying yard belongs, shall keep a
3 substantial fence around it in good repair, and by neglect-
4 ing so to do shall forfeit a sum not exceeding one hundred
5 dollars to be recovered and appropriated and applied in the
6 same manner, as prescribed in the preceding section.

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

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

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

Chapter 16.

CHAP. 16.

DRAINS AND COMMON SEWERS.

- Sect.* 1. Penalty for laying drains in highways or streets without consent of municipal officers.
2. Municipal officers authorized to construct public drains.
 3. Damages, how assessed and paid.
 4. Private drains, regulations, application for permits.
 5. Amount to be paid for permit, how adjusted.
 6. Drains heretofore constructed, how maintained and managed.
 7. Penalty for connecting private drains with public without permit.
 8. Penalty for violation of permit.
 9. Drains to be kept in repair. Penalty for neglect.
 10. Record of proceedings to be kept, and officers of town to control prosecutions.
 11. Sum for permit to be paid in sixty days. Fees of arbitrators, how determined.
 12. Private drains, how repaired, in case of neglect of owners.
 13. Penalty for willfully or carelessly injuring public drains.
 14. All, who enter a private drain, pay their proportion.
 15. To be paid in ten days after notice.
 16. Notice given before opened for repair.

SECT. 1. If any person shall dig up the ground in any highway or street in any town for the laying or repairing any drain or common sewer without the consent of the municipal officers in writing, he shall forfeit for each offense four dollars to the use of the town.

Penalty for laying drains in highways or streets without consent of municipal officers.
R. S., c. 24, § 1.

SECT. 2. The municipal officers of any town shall have authority to construct public drains or sewers, through, along, or across any public street, highway, or town way in their own town, the same to be constructed substantially as said officers shall permit; which shall be at the expense of such town, and under the direction and control of the municipal officers of the town where located.

Municipal officers authorized to construct public drains.

1854, c. 77, § 1.
1844, c. 94, § 2.

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

Damages, how assessed and paid.

1854, c. 77, § 1.

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

Private drains, regulations, application for permits.

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1854, c. 77, § 2.

Amount to be
paid for permits,
how adjusted.

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

1854, c. 77, § 3.

Drains hereto-
fore constructed,
how maintained
and managed.

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

1854, c. 77, § 4.

Penalty for
connecting
private drains
with public,
without permit.

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

1854, c. 77, § 5.

Penalty for
violation of
permit.

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

1854, c. 77, § 5.

Drains to be
kept in repair;

SECT. 8. If any person shall willfully or negligently vio-
2 late any of the conditions and regulations prescribed in his
3 permit, the municipal officers shall have power forthwith to
4 disconnect his drain from the public drain and declare his
5 permit forfeited; in which case such person his heirs assigns
6 shall not be allowed to enter such public drain, until a new
7 permit is granted. If any person by construction or use
8 of any private drain shall commit any nuisance, he shall be
9 liable therefor notwithstanding anything herein contained.

SECT. 9. After any such public drain shall be constructed
2 and any person has paid for connecting therewith, it shall

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

penalty for
neglect.

1854, c. 77, § 6.

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

Record of
proceedings to
be kept, and
officers of towns
to control
prosecutions.

1854, c. 77, § 7.

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

Sum for permit
to be paid in
sixty days.
Fees of arbitra-
tors, how
determined.

1854, c. 77, § 8.

SECT. 12. If any private drain in any town shall become
 2 so obstructed or out of repair as to do injury to any street
 3 or highway therein, and the person or persons using such
 4 drain shall unreasonably neglect to repair such injury, after
 5 notice by the street commissioner or highway surveyor the
 6 same shall be repaired by the town, and the expense thereof
 7 may be recovered to the use of the town in an action of the
 8 case against any one or more of the persons using such
 9 drain.

Private drains,
how repaired,
in case of neglect
of owners.

1854, c. 77, § 9.

SECT. 13. If any person shall willfully or carelessly do
 2 any injury or cause any obstruction to any public drain or
 3 outlet thereof constructed or maintained under the pro-
 4 visions of this chapter, or to any street or highway culvert
 5 leading into the same, he shall be liable to pay in an action
 6 of the case double the amount of the injury and damages so
 7 caused to the use of the town, where the same is located,

Penalty for
willfully or
carelessly
injuring public
drains.

CHAP. 17.

1854, c. 77, § 10.

All who enter a
private drain,
pay their
proportion.

To be paid in
ten days after
notice.

Notice given
before opened
for repair.

8 in addition to all other penalties for such offense provided
9 by law.

SECT. 14. When a person lays at his own expense a com-
2 mon drain or sewer all, who may join or enter it, shall pay
3 the owner a proportion of the expense of making it as
4 determined by the selectmen, saving a right of appeal to the
5 county commissioners. And the expense of opening and
6 repairing it shall be paid by all benefited to be determined
7 in like manner.

SECT. 15. The selectmen shall notify each person, to
2 whom he is to pay, and the amount thereof; and if not paid
3 in ten days, he shall be liable to pay double the amount with
4 cost.

SECT. 16. Before any such drain shall be opened all per-
2 sons interested are to have seven days notice thereof to be
3 given as the selectmen may direct; if objections thereto
4 are made to the selectmen, they shall determine, whether
5 they are reasonable, if found to be so, he is not to be liable
6 to any expense, and if not so found, or if none be made within
7 three days, they may give a written permission to proceed.

Chapter 17.**NUISANCES.**

Sect. 1. Certain nuisances described.

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

*Nuisances in harbor of Portland.*CHAP. 17.

- Sect.* 22. Bounds of harbor on northwesterly side.
 23. Bounds of harbor on southeasterly side.
 24. Wharf or incumbrance erected or made within those lines deemed a nuisance.
 25. Bounds receiving basins and reservoirs subjected to control of commissioners; obstructions without license deemed nuisances.
 26. Violations punished by indictment and fine.
 27. Commissioners appointed, term of service.
 28. Their compensation.

SECT. 1. The erecting continuing or using any building
 2 or other place for the exercise of any trade, employment,
 3 or manufacture, which by occasioning noxious exhalations,
 4 offensive smells, or other annoyances, becomes injurious and
 5 dangerous to the health, comfort, or property of individuals,
 6 or the public; the causing or suffering any offal, filth, or
 7 noisome substance, to be collected, or to remain in any place
 8 to the prejudice of others; the obstructing or impeding
 9 without legal authority the passage of any navigable river,
 10 harbor, or collection of water; or the corrupting, or ren-
 11 dering unwholesome, or impure, the water of any river,
 12 stream, or pond; or unlawfully diverting the same from its
 13 natural course or state to the injury or prejudice of others;
 14 and the obstructing or incumbering by fences, buildings, or
 15 otherwise, the public highways, private ways, streets, alleys,
 16 commons, common landing places, or burying grounds; shall
 17 be deemed nuisances within the limitations and exceptions
 18 hereafter mentioned. (a)

Certain
nuisances
described.

R. S., c. 164, § 1.

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

Places to be
assigned for
unwholesome
employments

R. S., c. 164, § 2.

SECT. 3. When any place or building so assigned shall
 2 become a nuisance, offensive to the neighborhood, or inju-
 3 rious to the public health, any person may make complaint
 4 thereof to the supreme judicial court, and if after notice to
 5 the party complained of, the truth of said complaint shall
 6 be admitted by the defendant by default, or made to appear
 7 to a jury on trial, the court may revoke such assignment,

Proceedings
when places so
assigned become
offensive.

(a) State vs. Hull, 21, Mo. 84. State vs. Hart, 34, Mo. 86. State vs. Payson, 37, Mo. 361.

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8 and prohibit the further use of such place or building for
 9 the offensive purposes aforesaid under a fine not exceeding
 10 one hundred dollars for each month the same shall be so
 11 continued after such prohibition, to be recovered on indict-
 12 ment to the use of said town; and may order the same to
 13 be abated, and issue a warrant therefor, or stay the same,
 14 as hereafter provided; and if the jury on said trial shall
 15 acquit the defendant, he shall recover his costs of the
 16 complainant.

R. S., c. 164, § 3.

When buildings
 for the manu-
 facture of
 gunpowder shall
 be deemed
 nuisances.

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

R. S., c. 164, § 4.

Burning bricks
 in parts of a
 town prohibited
 by vote;
 nuisances.

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

R. S., c. 164, § 5.

Water mills and
 dams on streams,
 and fences and
 buildings front-
 ing on public
 ways, in certain
 cases, not
 nuisances.

SECT. 6. The erecting and maintaining of water mills
 2 and dams to raise water for working the same upon or
 3 across streams not navigable, as provided in the chapter
 4 relating thereto, shall not be deemed nuisances, unless the
 5 same shall become offensive to the neighborhood or inju-
 6 rious to the public health, as mentioned in the first sec-
 7 tion, or unless the same shall occasion injuries or annoy-
 8 ances of a kind not within the purview of the said chap-
 9 ter. And fences and buildings fronting on public ways,
 10 commons, or land appropriated to public use, shall not be
 11 deemed nuisances, when they have been erected for the

12 times and shall be justified as mentioned in the one hun-
 13 dred and eleventh section of the eighteenth chapter.

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R. S., c. 164, § 6.

SECT. 7. Whoever shall be convicted of erecting causing
 2 or continuing a public or common nuisance, as described in
 3 this chapter or at common law, where no other punishment
 4 therefor is specially provided, may be punished by a fine
 5 not exceeding one hundred dollars; and the court with or
 6 without such fine may order such nuisance to be discontin-
 7 ued or abated, and may issue a warrant therefor as here-
 8 after provided.

Punishment for
nuisances, on
conviction;
abatement
thereof.

R. S., c. 164, § 7.

SECT. 8. Any person injured in his comfort, property, or
 2 the enjoyment of his estate by any nuisance as before de-
 3 scribed, or at common law, whether the same be a common
 4 and public nuisance, or a private nuisance, may maintain
 5 against the party guilty thereof an action on the case for
 6 the recovery of the damages, which he has thereby sus-
 7 tained, unless it be otherwise specially provided by law.

Action for
damages,
whether
nuisances be
public or private.

R. S., c. 164, § 8.

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

Process for
abatement of a
nuisance.

11 "STATE OF MAINE.

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

14 "Whereas, by the consideration of our — court, —
 15 begun and held at —," (describing the court, and the
 16 term,) "upon indictment," (or, "complaint," or "action in
 17 favor of A. B." as the case may be,) "C. D. of —, &c.,
 18 was adjudged guilty of erecting," ["causing," or "continu-
 19 ing"] "a certain nuisance, being a building in said —,
 20 and for —," (or, "fence," or other thing, describing par-
 21 ticularly the nuisance and the place,) "which said nuisance
 22 was ordered by said court to be abated and removed: We
 23 therefore command you forthwith, to cause said nuisance to
 24 be abated and removed; and also that you levy of the
 25 materials by you so removed, and of the goods, chattels,
 26 and lands of the said C. D., a sum sufficient to defray the
 27 expense of removing and abating the same, not to exceed

CHAP. 17.

28 the sum of ——— dollars," (the sum estimated by the court,) 29 "together with your lawful fees, and thirty-three cents more 30 for this writ. And, for want of such goods and estate to 31 satisfy the sums aforesaid, we command you to take the body 32 of the said C. D. and him commit unto our jail in W. in 33 said county, and there detain till he pay the sums aforesaid, 34 or be legally discharged. And make return of this warrant, 35 with your doings thereon, within thirty days. Witness, A. 36 R., Esq., at ———, this ——— day of ———, in the year of our 37 Lord ———.

38

J. S., Clerk."

39 And when the conviction shall be had upon an action before 40 a justice of the peace, and no appeal being made, the said 41 justice after estimating as aforesaid the sum necessary to 42 defray the expense of removing or abating the nuisance, 43 may issue a like warrant, making corresponding alterations 44 in the form thereof.

R. S., c. 164, § 9.

Warrant to be stayed, if defendant give security to discontinue the nuisance.

SECT. 10. Instead of issuing the said warrant, the court 2 or justice may order the same to be stayed upon motion 3 of the defendant, and upon his entering into recognizance 4 in such sum and with such surety as the court or justice 5 shall direct, in case of an indictment to the state, or in case 6 of a complaint or action to the plaintiff, conditioned either 7 that the defendant will discontinue said nuisance, or that 8 within a time limited by the court and not exceeding six 9 months, he will cause the same to be abated and removed, 10 as either shall be directed by the court; and upon his 11 default to perform the condition of the recognizance the 12 same shall be deemed forfeited, and the said court, or any 13 justice thereof, in term time or in vacation, or said justice 14 of the peace upon being satisfied of such default, may order 15 such warrant forthwith to issue, and scire facias to issue on 16 said recognizance.

R. S., c. 164, § 10.

Expenses of abatement to be defrayed from materials, if sufficient; otherwise, as in case of execution.

SECT. 11. The expense of abating a nuisance by virtue 2 of a warrant shall be collected by the officer in the same 3 manner, as damages and costs are collected on execution; 4 except that the materials of any buildings fences or other 5 things, that shall be removed as a nuisance, may be first 6 levied upon and sold by the officer, and, if any of the pro- 7 ceeds remain after satisfying the expense of removal, the 8 same shall be paid by the officer on demand to the defend- 9 ant or the owner of the property levied upon; and, if said 10 proceeds shall not be sufficient to satisfy said expenses, the 11 officer shall collect the residue thereof, as before mentioned.

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12 Any person committed to jail on such warrant, may be
 13 admitted to the privilege of the oath for the relief of poor
 14 debtors in the same manner, as if he had been committed
 15 on execution. And if said expense cannot be collected of
 16 the defendant, it shall be paid in the same manner as costs
 17 in criminal prosecutions.

R. S., c. 164, § 11.

SECT. 12. Any court of record, before whom an indictment complaint or action for a nuisance may be pending,
 2 may in any county issue an injunction to stay or prevent
 3 any such nuisance, and make such orders and decrees for
 4 enforcing or dissolving the same, as justice and equity may
 5 require.

Equity jurisdiction of S. J. Court, &c.

R. S., c. 164, § 12.

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

Stationary steam engine not to be used without license.

1846, c. 191, § 1.

SECT. 14. When application shall be made for such license,
 2 said officers shall assign a time and place for the consideration of the same, and shall give public notice thereof at least
 3 fourteen days beforehand in such manner, as they may select,
 4 and at the expense of the applicant, that all persons interested may be heard before granting a license.

Duty of town officers on application for a license.

1846, c. 191, § 2.

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

Such engine erected without license to be deemed a nuisance.
1846, c. 191, § 3.

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

Power of town officers to remove such engine.

1846, c. 191, § 4.

SECT. 17. No person or corporation shall use or cause to
 2 be used any steam boiler in this state, unless the same be
 3 provided with a fusible safety plug to be made of lead or
 4 some other equally fusible material and to be of a diameter
 5 of not less than one half an inch, which plug shall be placed

Steam boilers to be provided with fusible safety plug.

CHAP. 17.

1850, c. 189,
§ 1, 2.

Penalty for
removing such
plug, or using
steam boiler
without such
plug.

1850, c. 189,
§ 2, 3.

Blasting rocks;
notice to be
given.

1852, c. 257, § 1.

Violation,
penalty for.

1852, c. 257, § 2.

Notice for
construction of
wharves.

Act of April 14,
1856.

Bounds of
harbor on
northwesterly
side.

6 in the roof of the fire-box, when a fire-box is used; and in all
7 cases shall be placed in a part of the boiler fully exposed
8 to the action of the fire and as near the top of the water
9 line, as any part of the fire surface of the boiler; and for
10 this purpose it shall be lawful to use Ashcroft's "protected
11 safety fusible plug."

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

SECT. 19. Any person or persons engaged in blasting
2 limerocks or other rocks shall before each explosion give
3 seasonable notice thereof, so that all persons or teams, that
4 may be approaching, shall have a reasonable time to retire
5 to a safe distance from the place of said explosion; and no
6 such explosion shall be made after sunset.

SECT. 20. Any person, who shall violate the provisions of
2 the preceding section, shall be liable to pay five dollars
3 for each offense to be recovered in an action of debt
4 for the use of the person, who may sue therefor; and
5 shall also be liable to pay all damages caused by any ex-
6 plosion; and in case the person or persons so engaged
7 in blasting rocks shall be unable, or after judgment and ex-
8 ecution by the poor debtor's oath thereon shall avoid pay-
9 ment of the fine and damages and costs, then the owner or
10 owners of the quarry or quarries, in whose employment
11 such person or persons may be engaged, shall be liable for
12 the same.

SECT. 21. When the construction or extension of a wharf
2 in tidal waters in any city is desired by the permission of
3 the city authorities, they shall require the applicant to give
4 fourteen days notice thereof by publication in two newspa-
5 pers before acting upon it.

Nuisances in harbor of Portland.

SECT. 22. The harbor of Portland is bounded northwest-
2 erly by a line commencing at the eastern corner of the gas
3 company's wharf next above the Portland bridge, and

4 extending straight to the southern corner of the end of
 5 Robinson's wharf, and along the end of it to the eastern
 6 corner, thence straight to the southern corner of the end of
 7 Central wharf, and along the end of it to the eastern corner;
 8 thence straight to the southern corner of the end of Custom
 9 House wharf, and along the end of it to the eastern corner;
 10 thence straight to the southern corner of the end of Rail-
 11 way wharf, and along the end of it to the eastern corner;
 12 thence to the southern corner of the end of St. Lawrence
 13 wharf, and along the end of it to the eastern corner; thence
 14 parallel to the straight portion of the outside railroad track
 15 to the shoals to the southward of Fish point as defined on a
 16 plan of Portland harbor made by the United States coast
 17 survey in the year one thousand eight hundred and fifty-
 18 three.

1856, April 3.

SECT. 23. It is bounded southeasterly by a line commencing
 2 at the end of the breakwater as it now is, and extending
 3 southwesterly to the easterly corner of the end of the
 4 Ferry wharf; thence along the end of it to its westerly
 5 corner; thence in a straight line to Portland bridge, at a
 6 point eight hundred and fifty feet from the point where the
 7 northwesterly line of the harbor touches said bridge, and
 8 nine hundred and seventy-five feet from the line of high
 9 water mark in Cape Elizabeth.

Bounds of harbor
on southeasterly
side.

1856, April 3.

SECT. 24. No wharf or incumbrance of any kind shall ever
 2 hereafter be erected or extended into said harbor beyond
 3 either of said lines. No stones or other materials shall be
 4 deposited in said harbor. No land within the same covered
 5 by water shall be removed without the written permission
 6 of the commissioners hereafter named. Every erection,
 7 incumbrance or material, erected, placed, or deposited in
 8 said harbor, within the lines aforesaid, shall be deemed a
 9 public nuisance, liable to abatement.

Wharf or
incumbrance
deemed a
nuisance
erected or
made within
those lines.

1856, April 3.

SECT. 25. The receiving basins and reservoirs of said
 2 harbor shall comprehend the tidal waters of Fore river and
 3 Back cove, and those along the shore northeasterly to the
 4 easterly side of the mouth of Presumpscot river. They
 5 shall be and hereby are subjected to the control and regula-
 6 tion of the commissioners hereafter named. No erection,
 7 incumbrance or material shall hereafter be placed or depos-
 8 ited in those waters, which will obstruct the flow and ebb

Bounds receiv-
ing basins and
reservoirs sub-
jected to control
of commission-
ers; obstructions
without license
deemed
nuisances.

CHAP. 17.

9 of those waters, or diminish the volume thereof, without the
 10 written permission of said commissioners, or of a major part
 11 of them, therein describing the extent and character of the
 12 erection or deposit so permitted. Such permission by them
 13 subscribed shall be left with the clerk of the city of Port-
 14 land, to be by him recorded before any such erection,
 15 obstruction, or deposit is made. All erections, obstructions
 16 or deposits made contrary to these provisions, are to be
 17 deemed public nuisances and liable to abatement.

1856, April 3.

Violations
 punished by
 indictment and
 fine.

SECT. 26. Any person who shall offend against any of the
 2 provisions of this act shall be deemed guilty of a misde-
 3 meanor and liable to prosecution therefor by indictment in
 4 any court of competent jurisdiction; and on conviction to
 5 be punished by a fine not exceeding five hundred dollars;
 6 and he may also be sentenced to pay all expenses for an
 7 abatement or removal of such erection, obstruction, or
 8 deposit, made by him and to stand committed until he shall
 9 pay the same or give satisfactory security therefor.

1856, April 3.

Commissioners
 appointed, term
 of service.

SECT. 27. The governor shall nominate and with the
 2 advice and consent of the council, appoint three persons
 3 commissioners of the harbor and tidal waters connected
 4 therewith of the city of Portland. One of those first
 5 appointed shall continue in office one year; one for two,
 6 and the other for three years. At the expiration of each
 7 person's term of service, the same or another person shall
 8 in like manner be appointed to serve for three years.
 9 When a vacancy shall happen by death, resignation, or
 10 removal from the state, another person shall in like manner
 11 be appointed in his place to continue in service to the end
 12 of his term.

1856, April 3.

Their
 compensation.
 1856, April 3.

SECT. 28. The commissioners shall be entitled to receive
 2 from the city of Portland a reasonable compensation for
 3 all services actually performed.

Chapter 18.

CHAP. 18.

WAYS.

ARTICLE I. *Location, alteration, and discontinuance, of highways.*

- Sect.* 1. Commissioners' power, petition how framed.
 2. Notice how given, proved, recorded.
 3. Costs paid by petitioners on failure.
 4. Duties at time of hearing.
 5. Return when made, disposition of it, petitions for increase of damages, when presented.
 6. Proceedings, when such petitions presented.
 7. Damages, to whom, when to be paid.
 8. Petitions for increase of damages, proceedings on them.
 9. Not abated by death, all interested may join in them.
 10. Jury how summoned, parties notified.
 11. County attorney to be notified and attend.
 12. Who presides, jurors and witnesses sworn.
 13. Juror's proceedings—officer's duty—costs.
 14. Time allowed for removing growth, for payment of damages—for making the way.
 15. Way discontinued before damages paid, proceedings.
 16. Petitions respecting ways in different counties. Proceedings on them.
 17. Proceedings continued and closed.

ARTICLE II. *Town and private ways.*

- Sect.* 18. Powers of selectmen respecting town and private ways. Notice how given.
 19. Selectmen lay out—towns accept.
 20. Towns may discontinue; establish sidewalks; plant trees.
 21. Damages how estimated and paid.
 22. Selectmen refusing, proceedings.
 23. Towns refusing, proceedings.
 24. Petitions for increase of damages, when filed, proceedings.
 25. Damages sued for in thirty days after demand.
 26. When laid out or discontinued by commissioners, towns do not act.
 27. Ways not opened in six years, discontinued.
 28. Ways opened by commissioners, if towns neglect.
 29. Plantations have powers and proceed as towns.

ARTICLE III. *Ways in places not incorporated.*

- Sect.* 30. Commissioners may lay out ways in places not incorporated; expenses, by whom paid.
 31. Notice, how given.
 32. Ways, how to be laid out.
 33. Making of them, expenses of, how paid.
 34. Appeal, how made and prosecuted, proceedings stayed.
 35. On appeal committee appointed, proceedings.
 36. Judgment, when reversed, when not, proceedings.

ARTICLE IV. *Liability for repairs and for injuries.*

- Sect.* 37. Ways to be kept open and in repair.
 38. Ways between towns, how repaired.
 39. Same.
 40. Selectmen to assign limits to surveyors by April ten. When surveyors selectmen may delegate their powers.
 41. Lists delivered to surveyors by May ten, and two-thirds expended by July one.
 42. Surveyors' duties.
 43. Snow trodden down; sudden injuries repaired.

CHAP. 18. *Sect. 44.* Mail routes, apparatus to be kept for opening.

45. Surveyors make return of delinquents to assessors.
46. Trees may be planted.
47. Materials taken from lands not enclosed or planted.
48. Water courses not made to do injury.
49. Streets raised or lowered, injury how compensated.
50. When surveyors may expend more than taxes.
51. Towns may cause assessments for ways as for other expenses.
52. Wide wheels, and watering troughs, abatement for.
53. Ways may be opened and repaired by contract, tax collected, if not paid.
54. Surveyors to exhibit bills to selectmen, when.
55. Surveyors to pay balance in their hands to treasurer.
56. Road commissioners may be chosen, duties.
57. Road commissioners, powers and duties.
58. Non-residents and absentees, how notified.
59. Taxes of delinquents, how collected.
60. Towns may allow discount for money. Commissioners give bond, keep accounts.
61. Injuries occasioned by defects in ways.
62. Repair within six years proof of way.
63. No liability when weight of load exceeds six tons.
64. One indictment only at a term, highway includes other ways.
65. Surveyors responsible for defects in case of neglect.
66. Fines, agents to expend, their duties.
67. Fines certified by clerk of courts to assessors, their duties, how collected and paid.
68. Fines to be collected if way not repaired in four months.
69. Gates, bars, and fences on ways may be removed.
70. Logs and lumber to be removed by surveyors, proceedings.
71. Persons convicted of placing nuisance, to pay, when materials do not.
72. Buildings and fences existing twenty and forty years, effect.
73. Guide posts, duties of selectmen.
74. Guide posts, how and where erected, may be substitutes.
75. Ways less than two rods wide dedicated, towns need not repair.
76. Persons opening such ways liable; penalty for removing obstructions at their entrance.
77. Excavations near ways, how to be made, responsibilities respecting them by persons and towns.
78. Ice bridges may be made and protected.

ARTICLE V. *Repair of private ways.*

- Sect. 79.* Owners of private ways and bridges may call meetings, choose clerk and surveyor.
80. Surveyors' duties, penalty for neglect of owners to pay.
 81. Owners may make contracts for repairs, cause money to be assessed and collected.
 82. Penalties appropriated, process to collect them.

ARTICLE I. *Location, alteration, and discontinuance of highways.*

Commissioners' power; petition how framed.

- SECT. 1. County commissioners have power to lay out,
- 2 alter, or discontinue, highways leading from town to town.
 - 3 Responsible persons may present at their regular sessions
 - 4 a written petition describing a way and stating, whether its
 - 5 location, alteration, or discontinuance, is desired, or an
 - 6 alternative action, in whole or in part. The commissioners

7 may act upon it, conforming substantially to the description CHAP. 18.
 8 without adhering strictly to its bounds. (a) R. S., c. 25, § 1.

SECT. 2. Being satisfied, that the petitioners are respon- Notice, how
given, proved
and recorded.
 2 sible, and that an inquiry into the merits is expedient, they
 3 shall cause thirty days notice to be given of the time and
 4 place of their meeting by posting copies of the petition
 5 with their order thereon in three public places in each
 6 town, in which any part of the way may be, and to be served
 7 on the clerks of such towns, and to be published in some
 8 newspaper, if any, in the county. The fact, that notice has
 9 been so given being proved and entered of record, shall be Idem, § 2. (b)
 10 sufficient for all interested and evidence thereof.

SECT. 3. When their decision is against the prayer of the Costs paid by
petitioners on
failure.
 2 petitioners, they shall order them to pay to the treasurer of
 3 the county at a time fixed all expenses incurred on account
 4 of it; and if the same are not then paid, they shall issue a Idem, c. 99, § 12.
 5 warrant of distress against the petitioners therefor.

SECT. 4. They shall meet at the time and place appointed Duties of
commissioners
at time of
hearing; and in
laying out or
altering way.
 2 and view the way, and there or at a place in the vicinity,
 3 hear all parties interested. When they judge, the way
 4 to be of common convenience and necessity, they shall pro-
 5 ceed and perform the duties required by it; make a correct
 6 return of their doings signed by them accompanied by an
 7 accurate plan of the way; and state in their return the
 8 names of the persons, to whom damages are allowed, and
 9 the amount allowed to each. And if the way is to be made
 10 or altered, when it is to be done, when the damages are to be
 11 paid; and what time is allowed to owners to remove any
 12 thing standing thereon. When the way has been finally
 13 established, they shall cause durable monuments to be Idem, § 3, 4.
1852, c. 221, § 1.
 14 erected at the angles thereof.

SECT. 5. Their return made at their next regular session Return, when
made, disposi-
tion of it.
Petitions for
increase of
damages, when
presented.
 2 after the hearing is to be placed on file and to remain in
 3 the custody of their clerk for inspection *without record*. (c)
 4 And the case is then to be continued to their next regular
 5 term; when, or before then, all persons aggrieved by their
 6 estimate of damages shall present their petitions for re-
 7 dress. If no such petition be then presented or pending,
 8 the proceedings shall be closed, recorded, and become effect-

(a) 8, Me. 292. 23, Me. 9, 511. 26, Me. 353. 30, Me. 302. 32, Me. 452. 35, Me. 373. 37, Me. 112, 558.

(b) Idem refers to first chapter named in preceding section.

(c) 33, Me. 237.

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Idem, § 5, 18,
19, 20.

Proceedings
before and after
decision,
respecting
increase of
damages.

Idem, § 20, 21.

Damages when
to be paid ; to
whom awarded.

Idem, § 7.
1854, c. 92, § 1.

Petition for
increase of
damages.

Committee
agreed or jury
called, title may
be decided.

Idem, § 8.

May join in
such petitions,
which are not
abated by death.

Those interested,
may become
parties.

Idem, § 9, 10, 11.
1852, c. 277.

Jury, how
summoned.

9 ual; and all claims for damages not allowed by them be for-
10 ever barred. (a)

SECT. 6. When a petition for increase of damages is pre-
2 sented within the time allowed, the case is to be further con-
3 tinued, until a final decision respecting damages is made.
4 If they then are of opinion, that their proceedings ought
5 not to take effect subject to such damages, as have been
6 assessed, they shall enter a judgment, that the prayer of
7 the petitioners be not granted for that reason. Upon such
8 judgment no damages are to be allowed; but the costs are
9 to be paid by the county. If they are of opinion, that any
10 increase of damages assessed should not prevent a confirm-
11 ation of their proceedings, judgment is to be entered accord-
12 ingly; and the whole proceedings are to be recorded and
13 become effectual.

SECT. 7. Payment of damages may be suspended, until
2 the land, for which they are assessed, is taken. They are
3 to be allowed to the owners of reversions, and remainders,
4 and to tenants for life, and for years, in proportions to
5 their interests in the estate taken.

SECT. 8. When a petition is presented for an increase of
2 damages, an agreement may be made and entered of record
3 to submit the matter to a committee, who shall notify and
4 hear the parties and make return of their decision, which
5 being accepted shall be conclusive. When no such agree-
6 ment is made, a jury is to be summoned, whose verdict
7 returned, accepted, and recorded is conclusive. The com-
8 mittee or jury may decide upon the title of any petitioner
9 so far, as it respects damages.

SECT. 9. Persons may join or sever in such petitions pre-
2 sented on account of the same way; and when several such
3 petitions are pending, they may all be ordered to be sub-
4 mitted to the same jury; and the costs may be equitably
5 apportioned. Petitions are not abated by death of peti-
6 tioner. The survivors may continue to prosecute; those
7 interested in the estate taken may appear and become par-
8 ties, or may enter their acceptance of the damages awarded.
9 These provisions apply also to petitions for increase of
10 damages respecting streets in cities.

SECT. 10. When a jury is required, a warrant is to be
2 issued to a proper officer requiring him to notify the parties

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Parties notified.

3 named in it; and to summon a jury of twelve men making
 4 application to the selectmen of two or more towns in the
 5 county, in which no part of the land taken is situated, who
 6 shall draw from the jury box as many jurors, as may be re-
 7 quired not exceeding nine from one town. Jurors shall be
 8 drawn, summoned, and returns thereof made, as in other
 9 cases, except that notice to them need not be given more
 10 than twenty-four hours before the time for their attendance.
 11 When a full jury is not obtained from those present on
 12 account of interest or absence, the officer attending may re-
 13 turn talesmen.

Idem, § 8, 13.

SECT. 11. When a county is liable for damages, the county
 2 attorney is to be notified by such committee or officer, and
 3 is to appear in behalf of the county before such committee
 4 or jury at the time and place of hearing.

County attorney
to be notified and
be present.

Idem, § 16.

SECT. 12. The commissioners may appoint a person to
 2 preside at the view and hearing, who shall be sworn, and
 3 be allowed a compensation fixed by them. When no per-
 4 son is appointed, or when the person appointed is absent,
 5 the officer, who summoned the jury being first sworn is to
 6 preside. The person presiding is to administer an oath
 7 to the jurors for the faithful discharge of their duties; to
 8 swear the witnesses; and to keep order and direct the
 9 course of proceedings.

Who presides,
he and jurors
and witnesses to
be sworn.

Idem, § 17, 18.

SECT. 13. The jury are to view the premises, hear the
 2 testimony; the arguments of the parties or their counsel;
 3 and render a verdict signed by all of them, which is to be
 4 enclosed in an envelope with an endorsement thereon stat-
 5 ing the contents, and is to be delivered to the officer having
 6 charge of them, who is to return it to the commissioners at
 7 their next regular session with his doings stating his own
 8 travel and attendance and that of each juror. If the jurors
 9 cannot agree, they may be discharged, and a new warrant
 10 may be issued at the next regular session on motion of the
 11 petitioner. The party prevalling shall recover costs.

Proceedings of
the jury, officer's
duty, costs.

Idem, § 19, 20

SECT. 14. The owners of lands taken are to be allowed
 2 one year after the proceedings are finally closed to take off
 3 timber, wood, or any erection thereon. A time not exceed-
 4 ing two years is to be allowed for payment of damages, and
 5 not exceeding three years for making and opening the way.

Time allowed
for removing
growth, for
payment of
damages, for
making the way.

Idem, § 20.

SECT. 15. When the way is discontinued before the time
 2 limited for payment of damages, the commissioners may
 3 revoke their order for payment, and estimate the damage
 4 actually sustained, and order the same to be paid. Any

Way discontin-
ued before
payment of
damages,
proceedings.

CHAP. 18.

Idem, § 22.

Petitions
respecting ways
in two or more
counties,
proceedings on
them. Notices.

5 person aggrieved may have them assessed by a committee
6 or jury, as before stated.

SECT. 16. When a petition is presented respecting a way
2 in two or more counties, the commissioners being satisfied
3 as aforesaid may call a meeting of the commissioners of the
4 counties to be effected at a time and place named by caus-
5 ing an attested copy of such petition and of their order
6 thereon to be served upon their chairman; and they shall
7 give notice of such meeting by causing a like copy to be
8 published in the state paper and in one paper, if any, printed
9 in each such county, and to be posted in three public places
10 in each town interested, and served on the clerk thereof.
11 These notices are to be posted, served, and published thirty
12 days before the time of meeting.

Idem, § 23, 24.

Proceedings of
commissioners
on such
petitions.

SECT. 17. Each county must be represented at such meet-
2 ing by a majority of its commissioners. A majority of
3 those present may decide upon the whole matter. The
4 duties to carry that judgment into effect are to be performed
5 in each county by its own commissioners in the manner
6 respecting ways wholly within it. When each county is
7 not so represented those present may adjourn the meeting
8 to another time.

Idem, § 25, 26.

ARTICLE II. *Town and private ways.*

Power of
selectmen
respecting
town and
private ways.

Notice given.

Idem, § 27, 28.

Selectmen lay
out, town
accepts.

Idem, § 28, 29.

Towns may
discontinue
town and private
ways; establish
side walks, plant
trees.

SECT. 18. The selectmen of towns may personally or by
2 agency lay out, alter, or widen, town ways, and private ways
3 for one or more of its inhabitants, or for owners of culti-
4 vated land therein, on petition therefor. They shall give
5 written notice of their intentions to be posted in two pub-
6 lic places in the town and in the vicinity of the way, de-
7 scribing it in them, for seven days.

SECT. 19. A written return of their proceedings contain-
2 ing the bounds and admeasurements of the way and the
3 damages allowed to each person for land taken is to be
4 made and filed with the town clerk. The way is not estab-
5 lished, until it has been accepted in a town meeting legally
6 called afterward by a warrant containing an article for the
7 purpose. (a)

SECT. 20. A town may, at a meeting called by warrant
2 containing an article for the purpose, discontinue a town or
3 private way; and the selectmen shall estimate any damages
4 suffered by any person thereby. And may by an ordinance

5 set off portions of its ways or streets as sidewalks, and
 6 require them to be kept clear of snow and other obstruc-
 7 tions; and may authorize trees to be planted by their side.

CHAP. 18.

Idem, § 30,
 1855, c. 149, § 1.

SECT. 21. The damages for a town way are to be paid by
 2 the town; for a private way by those, for whose benefit it
 3 was stated in the petition to be. Any person aggrieved by
 4 the estimate of damages may on petition to the commis-
 5 sioners have them assessed in the manner provided respect-
 6 ing highways.

Damages, how
 estimated and
 paid.

Idem, § 31.

SECT. 22. When the selectmen unreasonably neglect or
 2 refuse to lay out or alter a town way; or a private way on
 3 petition of an inhabitant, or of an owner of land therein for
 4 a way leading from such land under improvement to a town
 5 or highway, the petitioner therefor may within one year
 6 thereafter present a petition stating the facts to the com-
 7 missioners of the county at a regular session, who are to
 8 give notice thereof to all interested, and proceed to
 9 act thereon as is provided respecting highways. Their
 10 decision returned and recorded is to be conclusive, allowing
 11 those aggrieved by their estimate of damages a right to
 12 have them assessed by a committee or jury as is provided
 13 respecting highways. The damages, and the costs *if the*
 14 *damages are increased*, are to be paid by those liable if no
 15 such application has been made, the commissioners may
 16 issue a warrant of distress to collect the same.

Selectmen
 unreasonably
 refusing,
 proceedings.

Idem, § 32.

SECT. 23. When a town unreasonably refuse to discon-
 2 tinue a town or private way, or to accept one laid out or
 3 altered by the selectmen, the parties thereby aggrieved
 4 may within the time and in the manner stated in the pre-
 5 ceding section present a petition to the commissioners, who
 6 shall in like manner proceed and act thereon, and cause
 7 their proceedings to be recorded by their own and by the
 8 town clerk, the rights of all parties may be preserved and
 9 determined as provided in that section.

Towns unrea-
 sonably refusing
 to accept or to
 discontinue.

Proceedings.

Idem, § 33, 34.

SECT. 24. In petitions for increase of damages on account
 2 of such ways the like proceedings may be had, and the
 3 rights of the parties may be determined, as provided for
 4 like purposes respecting highways. When it appears by the
 5 reports of selectmen, or by the records of towns, or by the
 6 records of commissioners, that notice was not given as
 7 required, such petitions may be filed with the clerk of the
 8 commissioners within two years after a final decision.

Petitions for
 increase of
 damages; when
 filed,
 proceedings.

Idem,
 § 36, 37, 38.

SECT. 25. When a person has become entitled to receive
 2 payment of damages or costs, after thirty days from demand

Damages sued
 for thirty days
 after demand.

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Idem, § 39.

Town ways laid out or discontinued by commissioners, not affected by doings of town for a time.

Idem, § 35.
1855, c. 162.

Way not opened in 14 years, discontinued.

Time fixed for a discontinuance.

Idem, § 41, 42.

Ways to be opened by agent of commissioners when towns neglect.

Expenses, how paid.

Idem, § 40.

Plantations liable as towns.

Idem, § 43.

Commissioners may lay out ways over lands not incorporated.

Expenses by whom paid.

3 thereof made upon the treasurer of a county, or town, or
4 party, liable, he may recover the same in an action of debt.

SECT. 26. When a town way has been laid out or altered
2 by the commissioners, their proceedings can not be affected
3 by any action of the town within five years; and when such
4 a way has been discontinued by them, it can not be again
5 laid out by the town within two years. The commissioners
6 have the same power, as they have respecting highways, for
7 five years.

SECT. 27. When a town, private, or highway, is wholly
2 or partly discontinued, a time is to be fixed for it. And
3 when laid out by the commissioners the way is to be re-
4 garded as discontinued, if not opened within six years from
5 the time allowed for it.

SECT. 28. When a town or highway is not opened and
2 made passable by the town liable within the time prescribed
3 therefor by the commissioners, they may cause it to be done
4 by an agent, not one of themselves, on petition of those
5 interested. The agent shall make a written contract there-
6 for and file a copy of it in the clerk's office; and the
7 commissioners shall forthwith certify to the assessors of the
8 town interested the time, when such contract is to be com-
9 pleted, and the amount to be paid therefor. They may
10 examine the doings of their agent, and at pleasure remove
11 him and appoint another. His account is not to be allowed
12 without notice first given to the town. When the contract
13 has been completed and the accounts allowed, the town
14 becomes liable to pay the amount expended with the
15 expenses of the agent for superintendence and for procur-
16 ing the allowance of his account. If the town neglects to
17 pay for thirty days, a warrant of distress is to be issued
18 by the commissioners to collect the same.

SECT. 29. Plantations required to assess a state or county
2 tax have the like powers and are subject to the like liabil-
3 ities and penalties, as towns, respecting ways. Their as-
4 sessors have the like powers and are to perform the like
5 duties, as selectmen of towns, respecting them.

ARTICLE III. *Ways in places not incorporated.*

SECT. 30. County commissioners on petition, as provided
2 in the first section of this chapter, may lay out, alter, or
3 discontinue, a highway on or over any township or tracts
4 of land in their county not within any town, or plantation

5 required to assess a state or county tax. All expenses for CHAP. 18.
6 making and opening the same are to be paid by the owners
7 of such lands, excluding lands reserved for public uses, in
8 proportion to their interests in the lands, over any part of Idem, § 44.
9 which such way is laid.

SECT. 31. Being satisfied, that there ought to be a hearing, they shall cause notice to be given of the time and place appointed therefor by service of an attested copy of the petition with their order thereon, upon the owners of such lands, if known, fourteen days before that time, and by a publication thereof in the state paper for six successive weeks, the last publication to be thirty days before that time. No proceedings are to take place, until proof is made, that such notice has been given.

Notice, how given.

Idem, § 45. 1841, c. 11.

SECT. 32. After hearing the parties at the time and place
2 appointed, they may proceed, as provided in the third sec-
3 tion of this chapter.

Ways, how laid
out.
Idem, § 46.

SECT. 33. When a way is laid out over such lands, they shall decide, whether any tract or part thereof will thereby be enhanced in value; and they may make as many divisions as may be equitable, conforming as nearly as convenient to known divisions or townships; and may assess upon each division adjudged to be enhanced in value such sum as will be proportionate to the benefits likely to result to it from the establishment of the way. The assessments may be made at such rates per acre, as they judge to be necessary for making and opening the way and for paying the expenses attending it.

SECT. 34. Parties interested may enter their appearance jointly or severally at the time of hearing before the commissioners, and any party so appearing may appeal from their decision respecting the way at any time, after it has been entered of record and before the next term of the supreme judicial court in said county, at which term such appeal may be entered and prosecuted by him or by any other party having so entered his appearance. And all further proceedings before the commissioners are to be stayed, until a decision is made in the appellate court.

Appeal may be made, how prosecuted.

Proceedings stayed.

1847, c. 28, § 1, 2, 6.
1853, c. 54, § 1.

SECT. 35. If no person appears at that term to prosecute
2 the appeal, the *judgment of the commissioners may be*
3 *affirmed*. If the appeal is then entered, not afterward, the
4 court may appoint a committee of three disinterested per-
5 sons, who, having been sworn and given such notice as the
6 court has ordered, are to view the route, hear the parties,

On appeal,
committed
appointed,
proceedings.

CHAP. 18.

1847, c. 28,
§ 3, 4, 5.

If judgment
reversed, no
further
proceedings, if
not carried into
effect; costs;
committee's
compensation.

1847, c. 28,
§ 4, 5, 7.

7 and make their report at the next term of the court, whether
8 the judgment of the commissioners should be in whole or in
9 part affirmed or reversed; which being accepted and judg-
10 ment thereon entered shall forthwith be certified to the
11 clerk of the commissioners.

SECT. 36. If the judgment of the commissioners be wholly
2 reversed, they shall proceed no further; and no petition
3 praying for substantially the same matter shall be enter-
4 tained by them for two years thereafter. If their judgment
5 be affirmed in whole or in part, they shall carry into effect
6 the judgment of the appellate court, as if made by them;
7 and the party appealing or prosecuting shall pay the costs
8 incurred since the appeal, if so adjudged by the appellate
9 court, which may allow costs in such cases to the prevailing
10 party to be paid out of the county treasury. The compen-
11 sation of the committee is to be the same, as commission-
12 ers would be for like services, to be allowed by the court.
13 The costs are to be collected as provided in the third sec-
14 tion of this chapter.

ARTICLE IV. *Liability for repair of ways, and for injuries.*

Ways repaired.

R. S., c. 25, § 57.

Ways in line
between towns,
how repaired.

Idem, § 58, 59.

Ways laid out
between towns,

SECT. 37. Highways, town ways and streets, legally
2 established are to be opened and kept in repair so, that
3 they are safe and convenient for travelers with horses, teams,
4 and carriages. In default thereof those liable may be
5 indicted, convicted, and a reasonable fine imposed for the
6 purpose.

SECT. 38. When a way has been established on a line
2 between towns, their selectmen shall divide the same cross-
3 wise, and assign to each town its proportion of the way by
4 metes and bounds, which, within one year thereafter being
5 accepted by each town at a legal meeting, shall render each
6 town liable in the same manner, as if the way were wholly
7 within the town; when a division of it is not so made, the
8 selectmen of either town may petition the county commission-
9 ers, who are to give notice by causing a copy of such applica-
10 tion with their order thereon appointing a time and place of
11 hearing to be served upon the clerk of each town for thirty
12 days, or by causing the same to be published in some news-
13 paper printed in the county for three weeks, previous to the
14 time appointed; and after hearing the parties, they may
15 make such a division of the way.

SECT. 39. A highway may be laid out on the line between
2 towns, part of its width being in each, and the commission-

CHAP. 18.

3 ers may then make such a division of it and enter the same
4 of record, and each town shall be liable in all respects, as
5 if the way assigned to it were wholly in the town.

how divided,
repaired.
Idem, § 60, 61.

SECT. 40. When its selectmen are appointed surveyors of
2 highways by a town, they may in writing delegate their
3 power or part of it to others. They shall annually before
4 the tenth day of April make a written assignment of his
5 division and limits to each surveyor of highways to be
6 observed by him.

Selectmen to
assign limits to
surveyors by
April 10, may
delegate their
power when
surveyors.

Idem, § 63, 64.
1853, c. 42, § 3.

SECT. 41. Each town shall annually raise money to be
2 expended on the town and highways to be assessed, as other
3 town charges. The assessors shall deliver to each surveyor
4 on or before the tenth day of May a list of the persons and
5 of the assessments on them to be expended within his
6 limits. Two-thirds thereof are to be so expended before
7 the first day of the next July.

Towns raise
money. Lists to
surveyors by
May 10; two
thirds expended
by July 1.

Idem, § 65, 66.
1853, c. 42, § 4.

SECT. 42. Surveyors shall give reasonable notice, and in
2 writing if required, to each person on his list resident in
3 town of the amount of his tax, and give forty-eight hours
4 notice, extraordinary casualties excepted, of the times and
5 places appointed for furnishing labor and materials at prices
6 fixed by the town therefor, affording each an opportunity to
7 work with his oxen, horses, cart, or plow, to the amount of
8 his tax. The tax may be paid to the surveyor in money,
9 who shall expend it faithfully for repairing the ways.

Surveyors'
duties.

Idem, § 67.

SECT. 43. When such ways within his limits are blocked up
2 or incumbered with snow, the surveyor shall forthwith cause
3 so much of it to be removed or trodden down, as will ren-
4 der them passable. The town may direct the manner of
5 doing it. In case of sudden injury to ways or bridges he
6 shall without delay cause them to be repaired.

Snow trodden
down. Sudden
injuries repaired.

Idem, § 68.

SECT. 44. There shall be furnished and kept in repair in
2 each surveyor's district, through which there is a mail route,
3 some effectual apparatus for opening ways obstructed by
4 snow to be used to break and keep open the way to the
5 width of ten feet.

Mail routes,
apparatus for
opening kept.

Idem, § 69.

SECT. 45. Each surveyor at the expiration of his term is
2 to render to the assessors a list of such persons, as have
3 not worked out or paid their taxes. The assessors are to
4 place the amounts due from each in distinct columns in their
5 next assessment of town taxes on such delinquents, to be
6 collected as other town taxes, and paid to the treasurer.

Surveyors to
return delin-
quents to
assessors.

Idem, § 70.

SECT. 46. A sum not exceeding five per cent. of the amount
2 committed to him may be expended by a surveyor under

Trees may be
planted.

CHAP. 18.

1841, c. 107.

Materials from
lands not
enclosed or
planted.R. S., c. 25,
§ 71, 72.Water courses
not to injure.

Idem, § 73.

Injury by raising
or lowering
street.

1846, c. 216.

When surveyors
may expend
more than taxes.

R. S., c. 25, § 74.

Towns may
raise and assess
moneys for
ways, as other
taxes.Idem, § 75, act
of 1856.Wide wheels
and watering
troughs,
abatement for.

3 the direction of the selectmen in planting trees about public
4 burying grounds, squares, and ways, within his district, if
5 the town by vote authorizes it.

SECT. 47. A surveyor may within his district remove any
2 obstacle, which does, or is likely to, obstruct a way or to
3 render its passage dangerous. He may dig for stone, gravel,
4 or other material, suitable for making or repairing ways in
5 land not enclosed or planted, and remove the same on to
6 the ways. If the land, from which such materials were
7 taken, be not within the limits of a way, the owner of it is
8 to be paid therefor in money by the town to be recovered,
9 after demand and refusal by the surveyor, in an action as
10 on an implied promise.

SECT. 48. No surveyor without a written permission first
2 obtained from the selectmen shall cause a water course to
3 be so conveyed by the side of a way as to incommode any
4 person's house or other building, or to obstruct any person
5 in the prosecution of his business. Any person so aggrieved
6 may complain to the selectmen, who shall view the water
7 course and may cause it to be altered, as they direct. (a)

SECT. 49. When a way or street is raised or lowered by
2 a surveyor or person duly authorized to the injury of an
3 owner of land adjoining, he may apply *in writing* to the
4 municipal officers, and they shall view such way or street,
5 and assess the damages, if any, occasioned thereby, to be
6 paid by the town, and their decision is final.

SECT. 50. When the sum appropriated is not sufficient to
2 repair the ways in a surveyor's district, he may with the
3 written consent of the selectmen employ inhabitants of the
4 town to labor for pay not exceeding fifteen per cent. of the
5 amount committed to him.

SECT. 51. Towns may raise money for the repair of
2 bridges and ways and direct the same to be assessed and
3 collected, as other town taxes, to be expended for the pur-
4 pose by the selectmen or by road commissioners, as the
5 town may direct.

SECT. 52. A town may at its annual meeting authorize its
2 assessors to abate not exceeding three dollars of the high-
3 way tax of any person, upon proof that he has owned and
4 used on the ways during that year cart wheels having fel-
5 loes not less than six inches wide. And they shall
6 abate three dollars from such tax of any inhabitant, who shall

7 construct and during the year keep in repair a watering
 8 trough beside the highway well supplied with water, the
 9 surface of which shall be two and a half feet or more above
 10 the level of the ground, and easily accessible for horses and
 11 carriages. If more than one person in a surveyor's district
 12 claims to furnish it, the municipal officers are to decide,
 13 where it shall be located. Idem, § 77, 78.

SECT. 53. Towns may authorize their surveyors or other
 2 persons to make contracts for opening or repairing their
 3 ways. And surveyors to collect taxes on their lists not paid
 4 within the time limited; and their assessors shall for that
 5 purpose deliver to them warrants in substance like warrants
 6 for the collection of town taxes. Such warrants may with
 7 the lists be delivered to the collector, who shall collect, as
 8 he does other town taxes, and pay the same to the respect-
 9 ive surveyors, who shall account to the selectmen for the
 10 expenditure thereof. Ways may be opened or repaired by contract.
Surveyors or collector may collect when tax not paid.
Idem, § 77, 78.

SECT. 54. Surveyors are to exhibit their rate bills to the
 2 selectmen on the first Monday of July, and at the expira-
 3 tion of their terms; and at those times render an account
 4 of all money by them expended on the ways. Any one
 5 unreasonably neglecting shall forfeit twenty dollars to the
 6 use of the town to be recovered in an action of debt. Surveyors to exhibit their bills to selectmen.
Idem, § 81.

SECT. 55. Money remaining in their hands not expended
 2 at the expiration of their offices is to be paid to the treas-
 3 urer of the town. If not so paid, after demand, the same
 4 with the addition of twenty per cent. may be recovered in
 5 an action for money had and received in the name and for
 6 the use of the town. They are to pay balances in their hands to treasurer.
Idem, § 79, 80.

SECT. 56. Towns may at their annual meetings elect road
 2 commissioners, not exceeding five, or one commissioner
 3 instead of surveyors. They are to be sworn; and vacan-
 4 cies may be filled at any legal town meeting. Except as
 5 hereafter provided, they are to have the powers and be sub-
 6 ject to the duties and penalties of surveyors. They may
 7 at any time assign the care and oversight of the ways to
 8 any of their number. They are to receive such compensa-
 9 tion, as the town provides. Road commis- sioners may be chosen, duties.
Idem, § 82, 83.

SECT. 57. The assessors are to deliver to such com-
 2 missioners a rate bill of all highway taxes assessed for
 3 the year with an annexed statement of the prices fixed for
 4 labor and materials. The collection of the taxes or any
 5 part thereof may by them be assigned to any of their num-
 6 ber, who are to notify the persons taxed and require of Road commis- sioners, powers and duties.

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Idem, § 84.

Non-residents
and absentees,
how notified.

7 them the performance of like labor in like manner, as sur-
8 veyors might. Their certificate to the assessors shall be
9 evidence of notice and of the neglect of any person, who
10 does not perform.

Idem, § 85.

Taxes of
delinquents,
how collected.

SECT. 58. These commissioners may give notice to non-
2 residents, and to persons absent from town without leaving
3 the name of an agent with the town clerk, or having any
4 agent known to them, of the amount assessed to them by
5 posting advertisements thereof in two public places in the
6 town. If no person appears and pays within twenty days
7 thereafter, the commissioners may make return of such
8 notice and neglect, as provided in the preceding section.

Idem, § 86.

Towns may
allow discount
for payment in
money.Commissioners
give bond and
keep account.

SECT. 59. The taxes of such delinquents may be collected
2 as other town taxes by the collector, or one of the com-
3 missioners, or by a person designated by them to the
4 assessors. Such collector or person is to be sworn and
5 give bond approved by the commissioners for the faithful
6 discharge of his duties. The assessors are to commit lists
7 of such taxes to him with their warrants for collection. He
8 is clothed with the same powers as collectors of town taxes,
9 and is to render his account and make payment of the
10 amount collected to the commissioners until the next annual
11 meeting, and after that to the treasurer of the town, who
12 is to have the like powers and be subject to the like obliga-
13 tions, as other collectors of town taxes.

Idem, § 87, 88.

Injuries by
defects in ways.

SECT. 60. Towns may at their annual meeting authorize
2 road commissioners to receive money in payment and allow
3 therefor, when paid before certified as delinquent, such dis-
4 count from the taxes, as the town may determine. When
5 more than one commissioner is chosen, the selectmen are to
6 name one of them to be chairman, who is to keep the rate
7 bills, a record of money received and paid, and hold the
8 money subject to payment, as the commissioners order. He
9 is to give bond with sureties to the town for the faithful
10 performance of his duties to be approved by the selectmen.
11 When only one is chosen, he is to give bond in like manner,
12 and be responsible for the performance of all duties per-
13 taining to the office.

SECT. 61. If any person shall receive any bodily injury,
2 or shall suffer any damage in his property, through any
3 defect or want of repair or sufficient railing in any highway,
4 town way, causeway, or bridge, he may recover in a special
5 action on the case of the county, town, or persons, who are
6 by law obliged to repair the same, the amount of damage

7 sustained thereby, if such county, town, or persons, had
 8 reasonable notice of the defect or want of repair. If the
 9 life of any person shall be lost through any such deficiency,
 10 the county, town, or persons, liable to keep such highway,
 11 town way, causeway, or bridge, in repair, provided they have
 12 reasonable notice of such deficiency, shall forfeit not exceed-
 13 ing one thousand dollars to be paid to the executor or
 14 administrator of the deceased for the use of his heirs to be
 15 recovered by indictment. (a)

Idem, § 89.

SECT. 62. When it appears on trial of any such action
 2 on indictment, that the party defendant has within six years
 3 before the injury made repairs on the way or bridge, it shall
 4 not be competent for him to deny the location thereof.

Repair within
six years; proof
of way.

Idem, § 101.

SECT. 63. No town is liable for such an injury, when the
 2 weight of the load, exclusive of the carriage, exceeds six
 3 tons. Proof of its weight is to be made by the plaintiff.

No liability
when weight of
load exceeds six
tons.
1843, c. 34.

SECT. 64. One indictment only for neglect to open ways
 2 or to keep them in repair is to be presented against a town
 3 at the same term of the court; but it may contain as many
 4 counts, as may be necessary to describe all portions of ways
 5 alleged to be defective. The word highway used therein
 6 will include town ways, causeways, and bridges.

One indictment
only at a term;
highway
includes other
ways.Idem, § 91.
1856, c. 221.

SECT. 65. When a fine is imposed, as provided in the
 2 thirty-seventh section of this chapter, the surveyor, in whose
 3 district the way was, shall pay to the town the amount of
 4 such fine and costs to be recovered by an action on the case,
 5 or he instead of the town may be indicted, if the defect ex-
 6 isted from his neglect to expend the money in his rate bill,
 7 or from neglect to give notice of any deficiency thereof to
 8 the selectmen.

Surveyors
responsible for
defects in case
of neglect.

Idem, § 90.

SECT. 66. All fines imposed are appropriated to the repair
 2 of such ways. The court imposing them is to appoint one
 3 or more agents to superintend the collection and applica-
 4 tion of them. Within three months after collection they
 5 are to make return of their doings to the clerk of the court
 6 to remain on file for the inspection of those interested, and
 7 subject on their motion to be audited and corrected by the
 8 court. If an agent is guilty of gross neglect of duty, or
 9 fraudulently misapplies or retains the fine, he forfeits double

Agents
appointed to
expend fines;
their duties.

(a) Notice, 7, Me. 442. 21, Me. 29. 23, Me. 556. 32, Me. 271.
 Way, 11, Me. 271. 12, Me. 300. 14, Me. 201. 16, Me. 187. 17, Me. 199. 18, Me. 286.
 26, Me. 234. 32, Me. 431. 33, Me. 460. 35, Me. 100. 36, Me. 393.
 Care, 11, Me. 335. 14, Me. 198. 18, Me. 380. 26, Me. 234. 31, Me. 299. 32, Me. 46; 574.
 Damages, 20, Me. 246. 29, Me. 310. 32, Me. 536. 33, Me. 271.

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Idem, § 92, 93.

Clerk of court to
certify fines to
assessors to
assess them;
how collected
and paid.

10 the amount of it to be recovered by indictment to the use
11 of the town.

SECT. 67. When a fine is imposed on a town, the clerk of
2 the court is to certify the same forthwith to the assessors,
3 who are to assess the amount thereof, as other town taxes,
4 and certify the same to the clerk of the court, and cause
5 the amount to be collected by their collector, who is to pay
6 the same to such agent at such time, as the court orders.
7 If not paid by that time, the clerk on application of such
8 agent is to issue a warrant for its collection, as the treas-
9 urer of state is authorized to do for the collection of a state
10 tax.

Idem, § 93, 94.

If way not
repaired in four
months, fine to
be collected.

SECT. 68. If the assessors neglect to make such assess-
2 ment and to certify the same to the clerk, and the defective
3 way is not repaired to the acceptance of such agent within
4 four months after notice of the fine, the court may issue a
5 warrant to collect of the town the fine and costs, or such
6 part thereof, as may be in arrears.

Idem, § 96.

Gates, bars and
fences on ways
may be removed.

SECT. 69. Any person may take down and remove, gates,
2 bars, or fences, upon or across any such way, unless they
3 are there to prevent the spread of infectious disease, or
4 were placed there by license of the county commissioners
5 or selectmen of the town. To those granting such license
6 a person aggrieved by such removal may apply, and on proof
7 that such erections were made by their license, they may
8 order the same to be replaced by the person, who removed
9 them.

Idem, § 97.

Surveyors to
remove logs and
lumber,
proceedings.

SECT. 70. When logs, lumber, or other obstructions, are
2 without necessity left on such ways, the surveyor, within
3 whose district they are, or in his absence any other sur-
4 veyor, may remove the same; and he shall not be liable for
5 any loss or damage thereof, unless occasioned by design or
6 gross negligence. When no person appears to pay the
7 expense and trouble of removal, he may sell at public auc-
8 tion so much thereof, as will be sufficient for the purpose
9 with charges of sale, first posting notice of the time and
10 place of sale in two public places in the town seven days
11 prior thereto. The person, through whose neglect or willful
12 default the same were left, is liable to be prosecuted as for
13 a nuisance.

Idem, § 98.

Persons
convicted of
nuisance to pay,
if materials not
sufficient.

SECT. 71. When any thing has been adjudged to be a
2 nuisance and to be abated, and the materials of which it is
3 composed do not on sale as aforesaid produce sufficient to
4 pay the charges of prosecution removal and sale, the court

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5 may order the deficiency to be raised by levy on the per-
6 sonal property of the person convicted of causing such
7 nuisance.

Idem, § 99.

SECT. 72. When buildings or fences have existed more
2 than twenty years fronting upon any way, street, lane, or
3 land appropriated to public use, the bounds of which can
4 not be made certain by records or monuments, such build-
5 ings or fences shall be deemed to be true bounds thereof.
6 When the bounds can be so made certain, no time less than
7 forty years will justify their continuance thereon, and on
8 indictment and conviction they may be removed.

Buildings and
fences existing
20 years on a
street or way;
existing 40
years.

Idem, § 100.

SECT. 73. Towns shall erect and maintain guide posts at
2 places on such ways, as may be determined by the select-
3 men to be necessary and convenient for travelers. The
4 places designated are to be entered of record by the clerk.
5 The selectmen for an unreasonable neglect of this duty for-
6 feit to the use of the town five dollars for each month to be
7 recovered by indictment.

Guide posts;
duty of
selectmen.

Idem, § 102, 103.

SECT. 74. Towns are to cause to be erected at each place
2 so designated a substantial post not less than eight feet
3 high and to be fastened to the upper end of it a board or
4 boards, on which is to be plainly painted in black letters on
5 a white ground the name of the next town on the route,
6 and of such other place, as the selectmen may direct, with
7 the number of miles to the same and the figure of a hand
8 with the fore-finger pointing to such town or place. Towns
9 at their annual meeting may adopt effectual substitutes.
10 For neglect of these duties a town forfeits to the use of
11 the state five dollars for each post not erected and main-
12 tained to be recovered by indictment. Plantations assessed
13 in a state or county tax are under the same obligations and
14 subject to the same penalties in these respects as towns;
15 and the duties required of selectmen are to be performed
16 by their assessors under like responsibilities.

Guide posts,
how and where
erected.
Substitutes
allowed.Idem,
§ 104, 105, 106.

SECT. 75. Towns are not required to keep in repair ways
2 dedicated to public use less than two rods wide in every
3 place, unless legally laid out; *nor any ways not laid out,*
4 *unless adopted by the town at a legal meeting.* (a) The
5 entrances to ways not required to be repaired from a public
6 way are to be so far closed up as to give notice, that they
7 are not a public way. If this be not done by the municipal

Ways dedicated
less than two
rods wide, not
kept in repair;
entrance closed.

(a) NOTE. Should a town be required to repair any way two rods or more wide dedicated by any person however useless to the town? Should not the whole section be struck out or the proposed amendment adopted?

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1854, c. 81, § 1, 2.

Persons opening
such ways,
liable. Penalty
for removing
obstructions.

1854, c. 81, § 2, 3.

Excavations
near ways, how
to be made,
responsibilities.

1855, c. 122.

Ice bridges may
be made,
protected.

1852, c. 236,
§ 1, 2.

Owners of
private ways
and bridges may
call meeting,
proceedings.

8 officers, and no notice be given, the town will be responsi-
9 ble for damages occasioned by defects as in ways legally
10 established.

SECT. 76. Persons, who open ways named in the preced-
2 ing section and suffer them to be defective, incur the liability
3 of towns for damages occasioned by defective ways. Who-
4 ever removes an obstruction placed at the entrance of such
5 ways for the purpose aforesaid forfeits not less than ten nor
6 more than fifty dollars for each offense to the use of the
7 town to be recovered in an action of debt.

SECT. 77. Persons desiring to make an excavation near
2 to a street or public way may make a written application to
3 the municipal officers setting forth its nature and extent and
4 requesting their direction thereon; and they shall in
5 writing direct, whether the same may or not be made,
6 and if permitted, the manner of making it, and when
7 so made no liability is incurred thereby. If not so made
8 the person making it is liable to pay to the town all
9 damages occasioned by the repair of the way or by pay-
10 ments made to persons injured by its defective condition so
11 caused to be recovered by an action on the case.

SECT. 78. Ice bridges may be constructed and maintained
2 across any river or body of water, when its ordinary navi-
3 gation is obstructed by it, by persons for their own and the
4 public use. Any person willfully destroying such bridge to
5 prevent its use forfeits not less than five nor more than
6 twenty dollars to be recovered by complaint one half to the
7 use of complainant, the other to the use of the state. No
8 person shall take down or injure any fence or occupy any
9 land for the construction or use of such a bridge without
10 consent of the owner first obtained. (a)

ARTICLE V. *Repair of private ways.*

SECT. 79. When four or more persons are owners and
2 occupants of a private way or bridge, any three of them
3 may make a written application to a justice of the peace to
4 call a meeting, who may issue his warrant setting forth the
5 time, place, and purpose, of such meeting, a copy of which
6 is to be posted at some public place in the town seven days
7 before the time of meeting. When so assembled they may
8 choose a clerk and surveyor to be sworn, and may deter-
9 mine, what repairs are necessary, and the proportion of

- 10 labor and materials to be furnished by each owner; and the
 11 manner of calling future meetings.

CHAP. 19.

R. S., c. 25,
§ 107, 108.Surveyors'
duties; penalty
for neglect of
owners to pay.

- SECT. 80. The surveyor so chosen, with respect to such
 2 way or bridge, has the powers of a surveyor of highways.
 3 For refusing to accept the trust or to take the oath he for-
 4 feits four dollars to be recovered as of surveyors of high-
 5 ways. Any owner and occupant, who on requirement of the
 6 surveyor neglects to furnish his proportion of labor and
 7 materials, is subject to liabilities and penalties, as in like
 8 cases respecting highways, to be recovered in like manner.

Idem,
§ 108, 109, 110.

- SECT. 81. The owners at such meeting may authorize a
 2 contract to be made for making and keeping such way or
 3 bridge in repair by the year or for a shorter time; may raise
 4 enough for that purpose, and choose assessors to assess the
 5 same on such owners and occupants in proportion to their
 6 interests, who are to deliver their assessment with a war-
 7 rant for its collection to the surveyor. Such warrant to be
 8 in substance such, as is prescribed for collection of town
 9 taxes. The surveyor is to collect the same, as taxes for
 10 highways are collected; and he is to be liable for neglect of
 11 duty, as surveyors of highways are for similar neglects.

Owners may
make contracts
for repair, cause
money to be
assessed and
collected.Idem,
§ 111, 112, 113.

- SECT. 82. Any money recovered under the two preceding
 2 sections is for the use of such owners. In any process for
 3 its recovery a description of them in general terms as pro-
 4 prietors or occupants of the way or bridge clearly describ-
 5 ing it therein is sufficient. Such process is not abated by
 6 the death, or by the transfer of interest, of any owner.

Penalties and
process.

Idem, § 114.

Chapter 19.

LAW OF THE ROAD.

Sect. 1. Definition of two words used.

2. Teams, to turn to the right, unable, to stop.
3. When stationary, or traveling slowly, allow others to pass.
4. Not to stand on way to obstruct it, nor be without a driver.
5. Bells on horses drawing runners.
6. Damages to injured party, penalty to state.
7. Teams to walk on bridges.
8. Boards forbidding it, to be exposed.
9. Driver of team of passengers not leave it without charge or fastening.
10. Certain teams to have wide rimmed wheels on certain roads.
11. Penalty for violation.
12. Team may be seized.

CHAP. 19.

Definition of words used.

Teams about to meet to turn to the right, when unable, to stop.

R. S., c. 26, § 1, 2.

When stationary or traveling slowly, to allow others to pass.

Idem, § 3.

Teams not to stand on ways to obstruct passage, &c. Idem, § 4.

Bells on horses drawing runners. Idem, § 5.

Damages to party injured; penalty to state.

Idem, § 6.

Teams to walk on bridges.

Idem, § 8, 9. 1848, c. 36.

Boards forbidding, to be exposed; penalty.

SECT. 1. *As used in this chapter the word way includes all kinds of public ways. And the word team all kinds of conveyances on such ways for persons and for property. (a)*

SECT. 2. When persons traveling with a team are approaching to meet on a way, they are seasonably to turn to the right of the middle of the traveled part of it so far, that they can pass each other without interference. When it is not safe, or is difficult on account of weight of load to do so, a person about to be met or overtaken, if requested, is to stop a reasonable time at a convenient place to enable the other to pass.

SECT. 3. When a person with a team is stationary, or traveling slowly, on a way at a place unsafe or inconvenient for passing him with a team, he is, if requested, to drive to the right or left, or to stop a reasonable time at a convenient place to allow the other to pass.

SECT. 4. No person is to leave his team stationary on a way so as to obstruct the free passage on it of other teams; or is to allow his team to be on a way without a driver.

SECT. 5. Three or more bells are to be fastened to one of the foremost horses drawing teams on snow without wheels.

SECT. 6. Any person injured by a violation of any provision of the previous sections may recover damages in an action on the case commenced within one year. Any person found guilty of such a violation forfeits not less than one nor more than twenty dollars to the use of the state to be recovered on complaint made to a justice of the peace within sixty days.

SECT. 7. No team is permitted to travel on a bridge erected wholly or partly by the state faster than a walk; nor on any bridge covered with plank and fifty feet long composing part of a way, when forbidden by the selectmen of the town required to keep it in repair, nor on a bridge owned by a corporation, when forbidden by it.

SECT. 8. For a willful violation of the provisions of the preceding section a person forfeits three dollars to be recovered on complaint one half to the use of the owners of the bridge the other half to the state, provided that a board legibly painted in black letters on a white ground be kept exposed in some conspicuous place at each end of the

(a) The proposed definitions are designed to remove uncertainties, and to avoid repetitions of names of conveyances, and of ways.

7 bridge; but no person passing after sunset and before sun-
 8 rise is liable to such forfeiture without proof of actual
 9 notice. Idem, § 10.

SECT. 9. The driver of a team having passengers therein
 2 conveyed for hire, who leaves it without any person in
 3 charge of it and without fastening it securely, may be pun-
 4 ished by fine not exceeding thirty dollars or by imprison-
 5 ment not exceeding one month. Driver not to
leave team
without one
in charge, and
without
fastening.
Idem, § 7.

SECT. 10. Teams with wheels when drawn by more than
 2 two horses or oxen must have the rims of their wheels at
 3 least four inches wide, when drawn by more horses or oxen
 4 at least five inches wide, when traveling on the following
 5 ways. And no team drawn by more than six horses or
 6 oxen is allowed to travel on them. These provisions are
 7 not applicable to stage or pleasure carriages, or to those
 8 owned by the state or the United States, or to any cart or
 9 wagon owned by settlers in the vicinity and used for farm-
 10 ing purposes. Mattanawcook road from Milford to Lincoln
 11 village. Military road from there to Houlton. Aroostook
 12 road from the military road to Aroostook river. Fish river
 13 road from that river to Fort Kent. Road from Guilford
 14 village to Moosehead lake. Certain teams to
have wide
rimmed wheels
on certain roads.

1845, c. 155, § 1.

SECT. 11. For a violation of the provisions of the preced-
 2 ing section the owner or driver of a team forfeits twenty
 3 dollars and one dollar more for each mile of road passed
 4 to be recovered by complaint before a justice of the peace
 5 in the county where the offense was committed. Penalty for
violation.

1845, c. 155, § 2.

SECT. 12. The justice, before whom such complaint is
 2 pending, on a libel or complaint may issue his warrant to
 3 seize and detain such team, which may be held to respond
 4 such fine and costs. Team may be
seized.
Idem, § 3.

Chapter 20.

FERRIES.

- Sect.* 1. County commissioners, license ferries, establish tolls, take bond.
 2. May establish them to be supported by towns, penalty for neglect.
 3. Penalty for neglect to keep safe boat, and to give prompt attendance.
 4. Person injured by neglect or default of ferryman may sue on his bond.
 5. No ferry within one mile of a steam or horse ferry.
 6. Penalty for keeping a ferry, or transporting, contrary to law.
 7. Ice leveled and way kept in repair in winter.
 8. Penalty for neglect of it, liability for injuries.
 9. Licensed ferrymen not to use steam or horse boats.
 10. At steam and horse ferries other boats used in times of danger.
 11. Obstructions of ferry ways prohibited.
 12. Piers may be sunk at ferries to guide boats.

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County commissioners may license ferries, establish tolls, take bond.

R. S., c. 27, § 1, 2.

They may establish ferries to be supported by towns, penalty for neglect.

Idem, § 6, 7, 8, 18.

Penalty for neglect to keep safe boat, and for neglect of attendance.

Idem, § 4, 5.

A person injured by the negligence or default of a ferryman may sue on his bond. Idem, § 3.

Ferry not within one mile of steam or horse ferry.

1842, c. 16.

Penalty for keeping a ferry or conveying passengers contrary to law.

R. S., c. 27, § 9.

SECT. 1. County commissioners may license persons to keep ferries at such places and for such times, as may be necessary, except where they are otherwise legally established, may establish tolls for the passage of persons and property, and may revoke such licenses at pleasure. They are to take from the person licensed a bond to the treasurer of state with sureties for the faithful performance of his duties.

SECT. 2. They may establish ferries at such times and places as may be necessary, and fix their tolls. When no person is found to keep them therefor, the towns, in which they are established, are to provide a person to be licensed to keep them, and are to pay the expenses, beyond the amount of tolls received, for maintaining them. When established between towns, they are to be maintained by them in such proportions as the commissioners may order. For neglect to maintain such a ferry, or its proportion thereof, a town forfeits forty dollars to the state to be recovered by indictment.

SECT. 3. Every keeper of a ferry is to keep a suitable and safe boat, or boats, for use on the waters to be passed, and give prompt attendance for passage, according to the regulations established for the ferry. For neglecting to keep such boat he forfeits twenty dollars, and for neglect of attendance, one dollar, to him who may sue therefor in an action of debt; and is liable in an action on the case to the party injured for his damages.

SECT. 4. Any one injured in his person or property by the negligence or default of a ferryman may commence a suit on his bond, in which the proceedings are to be similar to those in actions on the bonds of sheriffs.

SECT. 5. When a ferry is established by the legislature to be passed by a steam or horse boat, no other ferry can be established on the same river within one mile above or below it.

SECT. 6. A person, who keeps a ferry contrary to the provisions of the first and second sections of this chapter, or transports passengers or property across any licensed or established ferry for hire, forfeits for each day such ferry is kept, or for each time of transportation, four dollars to the party injured and keeping the ferry at or near the place, and is also liable to him for damages in an action on the case.

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Ice leveled and
way kept in
repair in winter.

SECT. 7. When tidal waters, over which ferries are established, become so frozen, that travelers may pass on the ice, the keepers of them are to level the ice and clear and repair the passage way from day to day, so that the same may at all times be safe and convenient for travelers with teams sleds and sleighs. Such way for passage may be made from a public landing near and connected with the opposite ferry landing. The commissioners are to fix a reasonable compensation therefor to be paid from the county treasury. Or they may contract with another person to perform such duties, and give notice thereof to the keeper of the ferry, before the river is closed; and during the continuance of such contract the liabilities of the keeper are transferred to the person contracting.

Idem, § 10, 11.

SECT. 8. The ferryman, or person contracting as provided in the preceding section, neglecting to perform the duties therein required forfeits ten dollars for each day's neglect, and is liable in an action on the case to pay damages to any person injured thereby.

Penalty for
neglect and
liability for
injury.

Idem, § 12.

SECT. 9. A licensed ferryman, who uses at his ferry a boat propelled by steam or horse power, forfeits his license, and is liable to pay such damages, as may be occasioned thereby to any person or corporation. This provision is not applicable to a ferryman owning or using such a boat for his ferry on March sixth, eighteen hundred and thirty.

Licensed
ferryman not to
use horse boats
or steam boats.

Idem, § 13.

SECT. 10. Persons required to use at a ferry steam or horse boats, when the passage by them is dangerous, may use other safe boats.

At horse and
steam ferries
other boats used
in times of
danger.
Idem, § 14.

SECT. 11. Any person, who places a weir or other obstacle, or without necessity anchors or places a raft, vessel, or water craft, so as to obstruct the ordinary passage way of any boat at a ferry licensed or established, forfeits twenty dollars to the use of the proprietor of the ferry to be recovered in an action on the case; unless such obstruction was inadvertently made and removed within thirty minutes, if practicable, after notice given of its improper position, or unless it was occasioned by hauling into a wharf, pier, landing, or dock, without any unreasonable delay or willful misconduct.

Obstructions to
ferries
prohibited;
penalty.

Idem, § 15, 16.

SECT. 12. The proprietors of a ferry may to guide their boats sink piers above and below and near their ferry ways on each side of a river not of greater length or breadth than twelve feet, and not so sunk as to injure any wharf or landing, where vessels had previously taken or discharged freights.

Piers may be
sunk to guide
boats at ferries.

Idem, § 17.

Chapter 21.

WORK HOUSES.

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

Towns may
provide work
houses. Persons
liable to
commitment.

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

R. S., c. 28, § 1.

Towns may
choose overseers
of such houses.

SECT. 2. Every town having a work house may at its
 2 annual meeting choose three, five, seven, or more overseers
 3 of such work house, who shall have the inspection and
 4 government thereof with power to appoint a master and
 5 needful assistants for the more immediate care and superin-
 6 tendence of the persons received or employed therein.

R. S., c. 28, § 2.

Duties of such
overseers.

SECT. 3. The said overseers, as occasion shall require,
 2 shall hold meetings on the business of their office. At their
 3 meeting they may make needful orders and regulations for
 4 such house to be binding until the next town meeting, when
 5 the same shall be submitted to the consideration of the

6 inhabitants; and such as shall be approved at said meeting CHAP. 21.
 7 remain in force, until revoked by the town. R. S., c. 28, § 3.

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

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

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

SECT. 7. There shall be stated quarterly meetings of all Quarterly and other meetings of such board.
 2 the said overseers on the first Tuesday of January, April,
 3 July, and October, to be held at the work house to inspect
 4 the management, and direct the business thereof. Besides
 5 the quarterly stated meetings, other meetings to be held at
 6 the work house may be called by the overseers of any town
 7 concerned; they giving notice of the time and occasion
 8 thereof to the other members of said board in such manner,
 9 as shall have been agreed upon at any stated meeting R. S., c. 28, § 7.
 10 thereof.

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

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

SECT. 10. The said joint board of overseers may also at Duties and proceedings.
 2 any such meeting agree with the master and assistants, and

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R. S., c. 28, § 10.

Proportion in
which expenses
are to be paid.

R. S., c. 28, § 11.

Mode of recovery
from delinquent
town.

R. S., c. 28, § 12.

Overseers may
order commit-
ment of certain
persons.

R. S., c. 28, § 13.

Neither town
may commit
more than its
proportion.

R. S., c. 98, § 14.

Idlers having
no settlement
may be
committed.

R. S., c. 28, § 15.

Delinquent
town may be
deprived of the
right to occupy
the house.

3 order meet allowance for their care and services; but all
4 other matters relating to said work house may be acted
5 upon at any other meeting duly notified, if one third part of
6 said board are present.

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

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
4 and adjusted by the joint board of overseers, the same may
5 be recovered of such delinquent town in an action to be
6 brought in the name of any person or persons, whom the
7 overseers shall in writing appoint for that purpose.

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

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

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

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

7 the privilege of sending any person thither, until it shall
8 comply with such agreement or direction.

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R. S., c. 28, § 16.

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

Either town
may furnish
additional
materials for
labor.

R. S., c. 28, § 17.

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

Master to keep
a registry.

R. S., c. 28, § 18.

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

Controversy
between master
and overseers,
how determined.
R. S., c. 28, § 19.

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

Each town
liable for its own
commitments.
Mode of
discharge.

R. S., c. 28, § 20.

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

Persons com-
mitted to be
kept employed.

R. S., c. 28, § 21.

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

Work houses
may be
discontinued.
R. S., c. 28, § 22.

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Certain special laws not affected by this chapter.

R. S., c. 23, § 23.

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

Chapter 22.**FENCES AND COMMON FIELDS.**

- Sect. 1.* What are legal fences.
2. To be maintained equally by adjoining occupants.
 3. If either neglect, proceedings of fence viewers on application.
 4. Complainant may recover double compensation in certain cases.
 5. Proceedings for division of partition fences.
 6. Each party bound to build the part assigned to him.
 7. To be kept in repair.
 8. Fences may vary from the dividing line in certain cases.
 9. Assignment of parts before fence is built.
 10. Occupant ceasing to improve, not to remove his fence in case the other will purchase.
 11. Liability if owner beginning to improve land lying in common.
 12. If fence be on town line, how divided.
 13. Division of fences, when binding.
 14. Provisions not applicable to house lots, nor agreements.
 15. Inclosure of lots lying together by a general fence.
 16. Manner of calling meetings of proprietors.
 17. How notice is to be given.
 18. How they may vote.
 19. May raise and assess money. Abatements.
 20. Choice of officers.
 21. Clerk to issue warrant to collect taxes.
 22. Apportionment of the general fence.
 23. Proprietors not liable, who do not occupy their lots.
 24. Apportionment of expenses according to interest.
 25. Manner of repairing fences of delinquents.
 26. Delinquent liable for double the expense.
 27. Proceedings if any part be suddenly destroyed.
 28. Choice of field drivers and their powers.
 29. No proprietor to put in stock contrary to regulations. Penalty.
 30. Remedy if a proprietor be injured by beasts of a stranger.
 31. Lines between proprietors to be run once in two years.
 32. Association may be discontinued.
 33. Certain proprietors not subject to these regulations.
 34. Waste portions of lots excluded from estimates and assessments.
 35. Proceedings on application of three or more to be set off.
 36. Proceedings for organizing to inclose a common field.
 37. After establishment of a common field proprietors to proceed as provided in this chapter.
 38. Penalty if fence viewers neglect their duty.
 39. Fees for services. Penalty for neglect of payment.

What are legal fences.

- 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

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R. S., c. 29, § 1.

5 thereof are equivalent thereto, shall be accounted legal and
6 sufficient fences.

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

To be main-
tained equally
by adjoining
occupants.
R. S., c. 29, § 2.

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

If either neglect,
proceedings of
fence viewers on
application.

1852, c. 234, § 1.

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

Complainant
may recover
double compen-
sation in certain
cases.

R. S., c. 29, § 4.

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

Proceedings for
division of
partition fences.

(a) Now inserted to make it read as the court has decided. 29, Me. 366.

(b) 33, Me. 62.

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

1852, c. 234, § 2.

Each party
 bound to build
 the part assigned
 to him.

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

R. S., c. 29, § 6.

To be kept in
 repair.

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

R. S., c. 29, § 7.

Fences may
 vary from the
 dividing line in
 certain cases.

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

R. S., c. 29, § 8.

Assignment of
 parts before
 fence is built.

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

9 of this chapter; excepting that the fence viewers may allow
 10 a longer time than thirty days for building the fence, if they
 11 think proper, having regard to the season of the year. In
 12 other respects the remedy for the aggrieved party shall be
 13 the same as is provided in the case aforesaid.

R. S., c. 29, § 9

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

Occupant ceas-
 ing to improve,
 not to remove
 his fence in case
 the other will
 purchase.

R. S., c. 29, § 10.

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

Liability if
 owner beginning
 to improve land
 lying in common.

R. S., c. 29, § 11.

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

If fence be on
 town line, how
 divided.

R. S., c. 29, § 12.

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

Division of
 fences, when
 binding.

1852, c. 234, § 3.

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Provisions not applicable to house lots, nor agreements.

R. S., c. 29, § 14.

Inclosure of lots lying together by a general fence.

R. S., c. 29, § 15.

Manner of calling meetings of proprietors.

R. S., c. 29, § 16.

How notice is to be given.

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

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

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

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

R. S., c. 29, § 17.

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

CHAP. 22.

How they may
vote.

R. S., c. 29, § 18.

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

May raise and
assess money.
Abatements.

R. S., c. 29, § 19.

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

Choice of
officers.

R. S., c. 29, § 20.

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

Clerk to issue
warrant to
collect taxes.

R. S., c. 29, § 21.

SECT. 22. The whole fence inclosing such general field
 2 shall, so far as it may be found convenient, be apportioned
 3 amongst the proprietors according to the number of acres
 4 held and cultivated or otherwise used by each one; and the
 5 part to be maintained by each proprietor shall be set out
 6 and assigned to him by any two or more fence viewers of the
 7 town, unless the proprietors shall agree on an apportion-
 8 ment of the fence among themselves. In all cases the pro-
 9 portion of the fence so assigned to each proprietor shall be
 10 recorded by the clerk in the books of the proprietors; and
 11 where there is no such clerk by the clerk of the town on
 12 the town records.

Apportionment
of the general
fence.

R. S., c. 29, § 22.

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

Proprietors not
liable, who do
not occupy their
lots.

CHAP. 22.

R. S., c. 29, § 23.

Apportionment
of expenses
according to
interest.

6 his land so long, as he shall neglect to cultivate or use it as
7 aforesaid.

SECT. 24. The expense of apportioning the fence, and
2 also for making and maintaining such part thereof, as can
3 not conveniently and justly be assigned to any one propri-
4 etor, shall be borne by all the proprietors, who are liable to
5 be taxed, in proportion to their respective interests; and
6 the part assigned to each proprietor shall be made and
7 maintained by himself so long, as he shall use his part of
8 the said general field for pasturing, planting, mowing or
9 otherwise.

R. S., c. 29, § 24.

Manner of
repairing fences
of delinquents.

SECT. 25. If any part of the fence assigned to any of the
2 proprietors shall become deficient, and if he shall not repair
3 it within three days after notice of such deficiency given to
4 him or his tenant by a fence viewer of the town, it may be
5 repaired by any other of the said proprietors; and such
6 repairs may be examined by any two or more fence view-
7 ers, and if adjudged by them *after notice (a)* to be suffi-
8 cient, they shall ascertain the cost of the repairs, and make
9 a statement thereof, and of the amount of their fees, in writ-
10 ing under their hands.

R. S., c. 20, § 25.

Delinquent
liable for double
the expense.

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

R. S., c. 29, § 26.

Proceedings if
any part be
suddenly
destroyed.

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

R. S., c. 29, § 27.
1852, c. 234, § 4.Choice of field
drivers and
their powers.

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

R. S., c. 29, § 28.

(a) Now inserted to make it read as the court has decided. 29, Mo. 366.

CHAP. 22.

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

No proprietor to put in stock contrary to regulations. Penalty.

R. S., c. 29, § 29.

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

Remedy if a proprietor be injured by beasts of a stranger.

R. S., c. 29, § 30.

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

Lines between proprietors to be run once in two years.

R. S., c. 29, § 31.

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

Association may be discontinued.

R. S., c. 29, § 32.

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

Certain proprietors not subject to these regulations.

R. S., c. 29, § 33.

SECT. 34. Portions of common fields inclosed under the provisions of this chapter, which are unoccupied and unimproved by their owners on account of their being rocky or barren, shall be excluded in all estimates for assessments under section nineteen, or for apportionments of fence under section twenty-two of this chapter.

Waste portions of lots excluded from estimates and assessments.

R. S., c. 29, § 34.

SECT. 35. Any three or more proprietors of lots in a general field lying within one general fence or inclosure may

Proceedings on application of

CHAP. 22.

three or more to
be set off.

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

R. S., c. 29, § 35.

Proceedings for
organizing to
inclose a
common field.

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

R. S., c. 29, § 36.

CHAP. 23.

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

After establishment of a common field proprietors to proceed as provided in this chapter.

R. S., c. 29, § 37.

SECT. 38. Any fence viewer, who shall when requested unreasonably neglect to view any fence, or to perform any other duties required of him in this chapter, shall forfeit three dollars to any person, who shall sue for the same within forty days after such neglect. He shall also be liable for all damages to the party injured.

Penalty if fence viewers neglect their duty.

R. S., c. 29, § 38.

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

Fees for services. Penalty for neglect of payment.

R. S., c. 29, § 39.

Chapter 23.

POUNDS, AND IMPOUNDING BEASTS.

Sect. 1. Each town to keep a pound, regulate cattle going at large.

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

CHAP. 23. *Sect. 22, 23. Replevin of beasts impounded.*

24. Rescue and punishment thereof.
25. Pound breach and punishment thereof.
26. Masters and parents liable for minors.
27. Restriction as to defense in such cases.
28. Limitations of actions for forfeitures.
29. Pound-keeper's fees.
30. Compensation to impounder.
31. Expense of keeping beasts impounded.

Each town to keep a pound. Regulate cattle going at large.

1855, c. 149, § 4.
R. S., c. 30, § 1.

Penalty for neglect.

R. S., c. 30, § 2.

Penalty for beasts going at large. May be impounded.

R. S., c. 30, § 3.
1853, c. 17, § 3.

Penalty for ungelded horses and rams going at large.

R. S., c. 30, § 4.

Towns may permit neat beasts to go at large.

R. S., c. 30, § 5.

SECT. 1. Towns may pass by-laws to regulate the going
2 at large of cattle and swine within them, and enforce them
3 by penalties. Each town shall constantly keep and main-
4 tain in such place therein, as the inhabitants thereof shall
5 direct, one or more sufficient pounds for the reception of
6 such beasts as may be by law liable to be impounded.

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

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

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

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

CHAP. 23.

SECT. 6. When any person is injured in his land by sheep,
 2 swine, horses, asses, mules, goats, or neat cattle, whether in
 3 a common or general field, or in a close by itself, he may
 4 recover his damages in an action of trespass against the
 5 person owning or having the possession of the beasts at
 6 the time of the damage, and in any such action there shall
 7 be a lien on said beasts, and they may be attached and held
 8 to respond the judgment as in other cases, whether owned
 9 by the defendant or only in his possession, or by distrain-
 10 ing the beasts or any of them doing the damage and pro-
 11 ceeding therewith, as hereinafter directed: *Provided*, that if
 12 the beasts shall have been lawfully on the adjoining lands,
 13 and shall have escaped therefrom in consequence of the
 14 neglect of the person, who had suffered the damage, to
 15 maintain his part of the partition fence, the owner of the
 16 beasts shall not be liable for such damage.

Persons injured
by beasts may
sue for damages
or distrain

R. S., c. 30, § 6.
1856, c. 252.

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

Pound keepers.
R. S., c. 30, § 7.

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

Towns respon-
sible for doings
of pound
keepers, and
pound keepers
required to give
bond.

1853, c. 17, § 4.

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

Pound keepers
to keep book of
records.

CHAP. 23.

R. S., c. 30, § 8.
1853, c. 17, § 1.

To restrain
beasts
impounded.

R. S., c. 30, § 9.

Impounder to
furnish certi-
ficate of the cause
of impounding.

R. S., c. 30, § 10.

Pound keeper
not to deliver
beasts till
damages and
costs are paid.

R. S., c. 30, § 11.

Proceedings, if
claimant object
to amount
demanded.

18 his successor in office, and shall be open to inspection of
19 all persons interested therein.

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

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

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

15 "of B. (date) 18—."

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

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

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

GREETING:

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

14 time when you will view the place where the damages were
15 done.

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

17 O. P., Pound keeper."

18 RETURN OF THE APPRAISERS.

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

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

27 "B. (date) 18—."

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

SECT. 14. Whoever shall take up in any public way or
2 commons, or within his inclosure or possessions, any such
3 beast as before mentioned as estrays, he shall within ten
4 days, if no owner calls for the beast, commit the same to
5 a pound keeper of the same town with a certificate, as
6 described in the eleventh section of this chapter; which
7 beast the pound keeper shall carefully keep till called for
8 by the owner, and all due charges paid, or until the beast
9 shall be disposed of, as is hereinafter prescribed.

Proceedings
when beasts are
taken up as
estrays.

R. S., c. 30, § 13.

SECT. 15. If the possessors of such stray beast shall not
2 deliver the same to a pound keeper with a certificate as
3 aforesaid within said ten days, he shall for every week
4 after the ten days aforesaid lose the expense of keeping,
5 and forfeit one per cent. of the value of such stray beast,
6 until he shall deliver the same to the pound keeper with
7 such certificate, or until such forfeiture shall amount to the
8 value of the beast.

Penalty for
not delivering
stray to pound
keeper.

R. S., c. 30, § 14.

SECT. 16. Whenever any pound keeper shall have received
2 any beast as aforesaid, he shall forthwith post and keep
3 posted for three days at his dwelling-house, and in two
4 other public places in the same town, advertisements by him
5 subscribed, stating the name of the impounder or finder,

Pound keeper to
advortise.

CHAP. 23.

R. S., c. 30, § 15.

If the owner does not redeem and the beasts are not replevied in ten days, pound keeper to advertise for sale.

1853, c. 17, § 1.

Sale to be postponed, if owner does not live in town, or the beasts have strayed from a drove, and notice to be published.

1853, c. 17, § 1.

When damages are claimed, pound keeper to have an appraisal.

1853, c. 17, § 2.

Disposal of proceeds of sale.

6 the time and cause of impounding, and a brief description
7 of the beast; and notifying the owner to pay, what is legally
8 and justly demandable, and to take the beast away; and
9 shall give the like public notice by the town crier, if such
10 there be within the town. If the value of the beast exceed
11 ten dollars, a copy of such advertisement shall be inserted
12 in some newspaper, if any, printed in the county.

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

SECT. 18. And if the pound keeper shall be informed, or
2 have reason to believe, that the beast impounded has strayed
3 from a drove, or probably does not belong to an inhabitant
4 of the town, he shall adjourn the sale thirty days, and shall
5 publish notice of such adjournment in such papers, as in his
6 opinion may give information to the owner, and he shall be
7 allowed a reasonable sum in addition to the fees aforesaid
8 for the publishing such notice; and the proceeds of such
9 sale shall be disposed of in the manner provided in the
10 twentieth section of this chapter.

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

SECT. 20. The pound keeper shall retain the amount of
2 his lawful charges and fees, and pay to others interested
3 their lawful dues. The balance he shall within thirty days
4 pay over to the treasurer of the same county; which bal-
5 ance the latter, or his successor, shall pay over at any time
6 within six years to such one on his written request, as shall
7 satisfactorily to him make out his right thereto, as having
8 been the owner of the property before it was sold. In case
9 of refusal on the part of the treasurer to pay over the same

CHAP. 23.

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

R. S., c. 30, § 18.

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

Owner may
 redeem at any
 time before
 sale.
 R. S., c. 30, § 19.

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

Replevin of
 beasts
 impounded.

R. S., c. 30, § 20.

SECT. 23. If the property shall be replevied, after the
 2 aforesaid notice of sale has been given, and before the sale
 3 be made, the sale shall be postponed till the action of
 4 replevin be decided; but no action of replevin shall be sus-
 5 tained, unless the writ be served before the sale be made.

Property
 replevied after
 notice, sale
 postponed till
 action be
 decided.
 R. S., c. 30, § 21.

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

Rescue and
 punishment
 thereof.

R. S., c. 30, § 22.

SECT. 25. If any person shall make any pound breach, or
 2 in 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
 5 use of the town a fine not less than ten dollars nor more
 6 than fifty dollars to be recovered by indictment. The per-
 7 son so offending shall also be liable to pay the party injured
 8 or impounding said beast or beasts, double the damage or
 9 forfeiture, he may be entitled to by the impounding of such
 10 beast, to be recovered in an action on the case.

Pound breach
 and punishment
 thereof.

R. S., c. 30, § 23.

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Masters and
parents liable
for minors.

R. S., c. 30, § 24.

Restrictions as
to defense in
such cases.

R. S., c. 30, § 25.

Limitation of
actions for
forfeitures.

R. S., c. 30, § 26.

Pound keeper's
fees.

R. S., c. 30, § 27.

Compensation
to impounder.

R. S., c. 30, § 28.

Expense of
keeping beasts
impounded.

R. S., c. 30, § 29.

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

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

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

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

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

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

Chapter 24.

CHAP. 24.

PAUPERS, THEIR SETTLEMENT AND SUPPORT.

- Sect.* 1. Settlements, how acquired.
 2. Remain till new ones acquired.
 3. Revision of laws does not affect settlements.
 4. Overseers chosen, money raised, poor relieved.
 5. Overseers' duties.
 6. Poor not sold at auction. Towns may contract for their support.
 7. Towns may unite to purchase a farm.
 8. Joint board to manage it—duties.
 9. Kindred liable for support of paupers.
 10. Court may assess them.
 11. On complaint filed it may be amended.
 12. Assessment for future support, order with whom to live.
 13. Assessment may be altered—costs.
 14. Children of paupers may be bound, terms and time.
 15. Overseers inquire respecting them, make complaint.
 16. Suits on bond, damages for benefit of child.
 17. Child when of age may sue master.
 18. Child departing without leave, returned.
 19. Child may be discharged on complaint of master.
 20. Persons of age may be bound for a year.
 21. Persons of age may complain to court.
 22. Persons of age and children in places not incorporated may be bound, and relief to them provided.
 23. Individuals may relieve sick and wounded in such places.
 24. Overseers to relieve those having no settlement in their town.
 25. Recovery against a town estops it to deny settlement.
 26. Overseers, where is a jail, duties.
 27. Notice of relief to towns liable, removal.
 28. Answer to be within two months.
 29. Notice and answer by mail sufficient.
 30. Persons removed, returning sent to house of correction.
 31. Paupers without settlement may be removed out of state.
 32. Towns liable to individuals for supplies after notice.
 33. Complaint against paupers intemperate.
 34. Towns may sue paupers for support.
 35. Overseers may take possession of property of deceased paupers.
 36. Overseers may prosecute and defend.
 37. Plantations may raise and expend money for support of poor.
 38. Penalty for bringing paupers into a town.
 39. Masters of vessels not to land passengers without consent.
 40. Penalty for violation; if not paid, vessel seized.
 41. Towns may appoint visiting officers to prevent landing.
 42. Paupers may be removed to their places of settlement, proceedings.
 43. Record of the proceedings; costs.
 44. Warrant for removal, how executed.
 45. Overseers of towns, to which removed, to provide for them.
 46. Appeal allowed from decision of justice.
 47. Complaint may be first made to court.
 48. Depositions may be used, decision estops.

SECT. 1. Settlements subjecting towns to pay for the support of persons on account of their poverty or distress are acquired as follows:

Settlement, how acquired.
 R. S., c. 32, § 1.

I. A married woman has the settlement of her husband, if he has any in the state; if he has not, her own settlement is not affected by her marriage. When the jury find on trial

Married women.

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7 of a suit between towns involving the settlement of a pau-
 8 per, that a marriage was procured to change it by the
 9 agency or collusion of the officers of either town, the settle-
 10 ment is not affected by such marriage.

Legitimate
 children.

II. Legitimate children have the settlement of their
 12 father, if he has any in the state, if he has not, they have
 13 the settlement of their mother within it; *but they do not*
 14 *have the settlement of either acquired after they are of age*
 15 *and have capacity to acquire one. (a)*

Illegitimate
 children.

III. Children legitimate or illegitimate do not acquire a
 17 settlement by birth in the town where they are born. Ille-
 18 gitimate children have the settlement of their mother.

Birth.

Division of
 towns.

Annexation.

IV. Upon division of a town a person having a settle-
 20 ment therein and absent at the time has his settlement
 21 in that town, which includes his last dwelling place in
 22 the town divided. *When part of a town is set off from it*
 23 *and annexed to another, the settlement of a person absent*
 24 *at the time of such annexation is not affected thereby. (b)*
 25 When a new town composed in part of one or more exist-
 26 ing towns is incorporated, persons settled in such existing
 27 town or towns, who had begun to acquire a settlement
 28 therein, and whose houses were in such new town at the
 29 time of its incorporation, have the same rights incipient and
 30 absolute respecting settlement, as they would have had in
 31 the town, where their homes formerly were.

Apprenticeship.

V. A minor who serves as an apprentice in a town four
 32 years and within one year thereafter sets up such trade
 33 therein being then of age has a settlement therein.

Residence five
 years.

VI. A person of age having his home in a town five suc-
 35 cessive years without receiving directly or indirectly sup-
 36 plies as a pauper has a settlement therein.

Residence,
 March 21, 1821.

VII. A person having his home in a town on March twenty-
 38 one eighteen hundred and twenty-one without having re-
 39 ceived supplies as a pauper within one year before that date
 40 acquired a settlement therein.

Incorporation of
 of towns.

VIII. Persons having their homes in an unincorporated
 42 place for five years without receiving supplies as a pauper
 43 and having continued their homes there to the time of its
 44 incorporation acquire settlements therein. Those having
 45 homes in such places less than five years before incorpora-

(a) This only incorporates as part of the law, what its settled construction now is. 3, Gr. 388. 24, Me. 281.

(b) This also makes the law read according to its established construction. 1, Gr. 129. 13, Me. 299. 35, Me. 184. *Starks vs. New Sharon*, decided 1855.

tion and continuing to have them there afterward, until five years are completed, acquire settlements therein.

SECT. 2. Settlements acquired under existing laws, remain until new ones are acquired. Former settlements are defeated by the acquisition of new ones.

Settlements remain, till new ones acquired. Idem, § 2.

SECT. 3. Persons who have begun to acquire settlements under existing laws, are not to be affected by a repeal of them and a re-enactment of their provisions in substance.

Revision of laws does not affect settlements. Idem, § 3.

SECT. 4. Towns are to relieve persons having a settlement therein, when on account of poverty they need relief. They may raise money therefor as for other charges of the town; and may at their annual meeting choose not exceeding twelve legal voters therein to be overseers of the poor.

Overseers chosen, money raised, poor relieved.

Idem, § 4.

SECT. 5. Overseers are to have the care of persons chargeable to their town, and are to cause them to be relieved, and to be employed, at the expense of the town, and as the town directs, when it does direct.

Overseers' duties.

Idem, § 5.

SECT. 6. Persons chargeable are not to be set up and bid off at auction either for support or service, but towns at their annual meetings, when the warrant contains an article for the purpose, may contract for the support of their poor for a term not exceeding five years.

Poor not sold at auction. Towns may contract for their support. 1845, c. 147. 1847, c. 12.

SECT. 7. Towns may unite in the purchase of a farm, or in the erection of buildings, to be used for the support of the poor; and in procuring all necessary furniture and apparatus therefor. For these purposes each town may choose such number of commissioners, as may be agreed upon, to constitute a joint commission to cause the agreement of the towns to be carried into effect.

Towns may unite to purchase a farm.

1853, c. 25, § 1.

SECT. 8. The overseers of such towns constitute a joint board of overseers of such farm and buildings. They may at a full meeting establish rules for the management thereof; appoint a superintendent, prescribe his powers and duties, and cause all the paupers of such towns to be supported there. They may receive and support there paupers of other towns. Towns may raise money for the purposes named in this and the preceding sections.

Joint board of overseers; duties.

Idem, § 2, 3.

SECT. 9. The father, and mother, grandfather, and grandmother, children, and grand children, by consanguinity living within the state and of sufficient ability, are to support persons chargeable in proportion to their respective ability.

Kindred liable.

R. S., 32, § 6.

SECT. 10. A town or any kindred, who have incurred any expense for the relief of a pauper, may complain to the supreme judicial court in the county, where any one of such

Court on complaint may assess them.

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4 kindred resides; and the court may cause such kindred to
 5 be summoned, and upon a hearing or default may assess and
 6 apportion a reasonable sum upon such kindred, as are found
 7 to be of sufficient ability, for the support of such pauper to
 8 the time of such assessment; and may enforce payment
 9 thereof by warrant of distress. Such assessment is not to
 10 be made to pay any expense for relief afforded more than
 11 six months before the complaint was filed.

Idem, § 7.

Complaint filed,
 may be
 amended.
 Summons.

SECT. 11. Such complaint may be filed with the clerk of
 2 the court, who is to issue a summons thereon returnable and
 3 to be served, as writs of summons are; and on suggestion
 4 of either party that there are other kindred of ability not
 5 named, the complaint may be amended by inserting their
 6 names, and they may be summoned in like manner, and be
 7 proceeded against as if originally named.

Idem, § 10, 11.

Assessment for
 future support,
 may order with
 whom pauper is
 to live.

SECT. 12. The court may assess and apportion upon such
 2 kindred a sum sufficient for the future support of such pau-
 3 per to be paid quarterly, until further order. And upon
 4 application of the town or person, to whom payment was
 5 ordered, the clerk may issue or renew a warrant of distress
 6 to collect, what may be due for the preceding quarter,
 7 returnable to the next term of the court.

Idem, § 8, 9.

Court may alter
 assessment.
 Costs.

SECT. 13. The court may from time to time make any
 2 further order on complaint of a party interested, and after
 3 notice given alter such assessment or apportionment. On
 4 a failure to sustain a complaint the respondents recover
 5 costs.

Idem, § 12.

Children may be
 bound, terms
 and time.

SECT. 14. The minor children of parents chargeable, or
 2 of parents unable in the opinion of overseers to maintain
 3 them, and such children chargeable themselves, may with-
 4 out their consent be bound by the overseers by deed of
 5 indenture as apprentices or as servants to any citizen of the
 6 state to continue, till the males are twenty-one, and the
 7 females eighteen years of age or are married, unless sooner
 8 discharged by the death of their master. Provision is to
 9 be made in such deed for the instruction of males to read,
 10 write, and cypher, and for females to read and write; and
 11 for such further instruction and benefit within or at the end
 12 of the term, as the overseers think reasonable.

Idem, § 13, 14, 55.

Overseers
 inquire, may
 complain of
 master.
 Court may
 discharge child,
 who may be
 bound again.

SECT. 15. The overseers are to inquire into the treatment
 2 of such children, and to protect and defend them in the
 3 enjoyment of their rights in reference to their masters and
 4 others. They may complain to the supreme judicial court
 5 in the county, where their town is, or where the master

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6 resides, against such master for abuse, ill-treatment, or
 7 neglect, of a child bound to him. The court is to cause
 8 him to be notified, and upon a hearing of the parties or on
 9 default may for sufficient cause proved discharge the child
 10 with costs; or dismiss the complaint, with or without costs
 11 at discretion. Any child so discharged, or whose master
 12 has deceased, may be bound anew for the remainder of the
 13 time.

Idem,
 § 15, 16, 17, 55.

SECT. 16. The overseers may by a suit on the deed of
 2 indenture recover damages for breaches of its covenants.
 3 The amount so recovered deducting reasonable charges is
 4 to be placed in the treasury of the town to be applied by
 5 the overseers to the benefit of the child during his term, or
 6 be paid to him at the expiration of it. The court may on
 7 trial of such a suit for sufficient cause exhibited discharge
 8 the child. Such suit is not abated by the death of overseers
 9 or by the expiration of their term of office. It is to pro-
 10 ceed in their names or in the names of the survivors.

Suits on bond.
 Damages for
 benefit of child.

Idem, § 18, 19.

SECT. 17. Such child within two years after the expiration
 2 of his term may commence an action of trespass or case, or
 3 a suit on the deed, to recover damages for a breach of its
 4 covenants, or for injuries, other than such, as have been tried
 5 in a suit between the overseers and master. He is for this
 6 purpose entitled to the custody of the deed of indenture
 7 when necessary, or to a copy of it, and he may sue upon it
 8 as assignee without an assignment of it.

Child becoming
 of age, may sue
 master for
 damages.

Idem, § 20.

SECT. 18. When a child so bound departs from service
 2 without leave, his master or a person in his behalf may com-
 3 plain on oath to a justice of the peace in the county, where
 4 he resides, or where the child is found, who is to issue a
 5 warrant and cause such child to be brought before him, and
 6 when the complaint is supported, he is to order the child to
 7 be returned to his master, though he may reside in another
 8 county, or commit him to a jail or house of correction to
 9 remain not exceeding twenty days, unless sooner discharged
 10 by his master. A person, who entices such a child to leave
 11 his master, or harbors him knowing, that he has so departed,
 12 is liable to the master for all his damages.

When child
 departs, he may
 on complaint to
 a justice be
 arrested and
 returned.
 Those enticing
 or harboring,
 liable.

Idem, § 21, 22.

SECT. 19. A master may complain to the court in the
 2 county, where he resides, or where the overseers making
 3 the indenture resided, for gross misbehaviour of the child,
 4 and the court after notice to the child and to the overseers
 5 of the town binding may discharge the child.

Child may be
 discharged on
 complaint of
 master.

Idem, § 23.

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Persons of age,
may be bound
for one year.

Idem, § 24.

Person bound
may complain to
court.

Idem, § 25.

Persons and
children in
places not
incorporated,
may be bound.
Relief provided
for paupers in
such places.

Idem, § 26, 27.

Individuals may
relieve the sick
and wounded in
such places.

1850, c. 191, § 1, 2.

Overseers to
relieve persons
in their towns
having settle-
ments in other
towns.

SECT. 20. Overseers may set to work, or by deed bind to service upon reasonable terms for a term not exceeding one year, persons, who have settlements in their town, and those who have none in the state, married or not married, able of body, upwards of twenty-one years of age, having no apparent means of support and living idly; and all persons liable to be sent to the house of correction.

SECT. 21. A person so bound may complain to the court in the county, where he or the overseers reside, and the court after notice to the overseers and master may upon a hearing dismiss such complaint, or discharge him from the master and overseers, and may award costs to either party or against the town at discretion.

SECT. 22. Persons living in places not incorporated and needing relief are under the care of overseers of the adjoining town, where they are liable to be taxed; and such overseers may bind to service the children of such persons, as they may those of paupers of their own town, and may bind out persons described in the twentieth section of this chapter in the manner therein provided residing in such unincorporated place, as if in their own town, such persons being entitled to a like remedy and relief. (a) When relief is provided for paupers residing in such places, the towns furnishing it are entitled to the same remedies against the towns, where they have a settlement, as if such persons resided in their own town.

SECT. 23. A person residing in a place not incorporated may provide relief and medical aid for persons sick, wounded or dangerously injured, residing in such place, or may cause him to be buried, and may recover the amount necessarily expended of the town, where such person had a settlement, if within sixty days after such relief was afforded, he has delivered into a post office postage paid a written notice signed by him informing them of the name of the person relieved, the nature of his sickness or injury if known, and the amount expended. Towns paying such expenses or costs may recover the amount with interest of the person relieved or of any one liable for his support.

SECT. 24. Overseers are to relieve persons destitute found in their towns and having no settlement therein, and in case of decease decently bury them; the expenses whereof and of their removal incurred within three months

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5 before notice given to the town chargeable may be recov-
 6 ered by the town incurring them against the town liable in
 7 an action commenced within two years after the cause of
 8 action accrued, and not otherwise; and may be recovered
 9 of their kindred in the manner before provided in this
 10 chapter.

R. S., c. 32,
 § 29, 46.

SECT. 25. A recovery in such an action against a town
 2 estops it from disputing the settlement of the pauper with
 3 the town recovering in any future action brought for the
 4 support of the same pauper.

Recovery estops
 to deny
 settlement.

Idem, § 30.

SECT. 26. Overseers of a town, in which there is a county
 2 jail, may by their order in writing set to work so far as
 3 necessary for his support any debtor committed and then
 4 chargeable to any town in the state for his support. The
 5 town, where he has a settlement, is liable to pay the expenses
 6 incurred not so paid by him; and the town incurring them
 7 may recover the same of the creditor, at whose suit he was
 8 committed, at the rate fixed by law for his support.

Overseers,
 where there is a
 jail, duties.
 Liability of
 creditor to pay.

Idem, § 31, 32.

SECT. 27. Overseers are to send a written notice signed
 2 by one or more of them stating the facts respecting a per-
 3 son chargeable in their town to overseers of the town,
 4 where his settlement is alleged to be, requesting them to
 5 remove him, which they may do by a written order directed
 6 to a person named therein, who is authorized to execute it.

Notice to be
 given of relief
 to town liable.

Idem, § 42.

SECT. 28. Overseers receiving such notice are within two
 2 months, if the pauper is not removed, to return a written
 3 answer signed by one or more of them stating their objec-
 4 tions to his removal; and if they fail to do so, the overseers
 5 requesting his removal may cause him to be removed to that
 6 town in the manner provided in the preceding section; and
 7 the overseers of the town, to which he is sent, are to re-
 8 ceive him and provide for his support; and their town is
 9 estopped to deny his settlement in their town in an action,
 10 that may be brought to recover for the expenses incurred
 11 for his previous support and for his removal.

Answer to be
 returned within
 two months.

Idem, § 43.

SECT. 29. When a written notice or answer provided for
 2 in this chapter is sent by mail postage paid, and it arrives
 3 at the post office, where the overseers, to whom it is
 4 directed reside, it is to be deemed a sufficient notice or
 5 answer.

Notice by mail
 arriving,
 sufficient.

Idem, § 44.

SECT. 30. A person removed, as provided in this chapter,
 2 to the place of his settlement who voluntarily returns to
 3 the town, from which he was removed without the consent
 4 of the overseers, on conviction thereof before a justice of

Persons
 removed,
 returning may
 be sent to house
 of correction.

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Idem, § 45.

Overseers may cause paupers having no settlement in the state, to be removed out of it.

Idem, § 47.
1856, c. 206.

Towns liable to individuals for supplies furnished after notice.

Idem, § 48.

Overseers to complain of persons, notoriously intemperate.

Idem, § 49.

Towns may recover of paupers for their support.

Idem, § 50.

Overseers take possession of property of paupers deceased.

Idem, § 51.

They may prosecute and defend.

Idem, § 52.

Plantations may raise money for support of poor.

Idem, § 53.

Penalty for bringing paupers into a town.

5 the peace, may be sent to the house of correction as a vag-
6 abond.

SECT. 31. Overseers may make complaint, that a pauper
2 chargeable to their town has no settlement in the state, to
3 a justice of the peace, who may, if he thinks proper, by his
4 warrant directed to a person named therein cause such pau-
5 per to be conveyed at the expense of such town beyond the
6 limits of this state to the place, where he belongs.

SECT. 32. Towns are to pay expenses necessarily incurred
2 for the relief of paupers by an inhabitant not liable for their
3 support after notice and request to the overseers, until pro-
4 vision is made for them.

SECT. 33. When a person in their town notoriously sub-
2 ject to habits of intemperance is in need of relief, the
3 overseers are to make complaint to a justice of the peace
4 in the county, who is to issue a warrant and cause such
5 person to be brought before him, and upon a hearing and
6 proof of such habits he is to order him to be committed to
7 the house of correction to be there supported by the town,
8 where he has a settlement, and if no such town, at the
9 expense of the county, until discharged by the overseers of
10 the town, in which the house of correction is situated, or by
11 two justices of the peace and quorum.

SECT. 34. A town, which has incurred expense for the
2 support of a pauper, whether he has a settlement in that
3 town or not, may recover the same of him, his executors, or
4 administrators, in an action of assumpsit.

SECT. 35. Upon the decease of a pauper then chargeable
2 the overseers may take into their custody all his personal
3 property, and if no administration on his estate be taken
4 within thirty days, may sell so much thereof, as may be
5 necessary to repay the expenses incurred. They have the
6 same remedy to recover any property of such pauper not
7 delivered to them as his administrator would have.

SECT. 36. For all purposes provided for in this chapter
2 its overseers or any person appointed by them in writing,
3 may prosecute and defend a town.

SECT. 37. Plantations at legal meetings called for the
2 purpose may raise and expend money for support of the
3 poor to be applied by their assessors.

SECT. 38. A person, who brings into and leaves in a town,
2 where he has no settlement, a poor person knowing him to
3 be so with intent to charge such town with his support, for-

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4 feits a sum not exceeding one hundred dollars to be recov-
5 ered to the use of such town in an action of debt.

Idem, § 54.

SECT. 39. When a vessel with passengers on board having
2 no settlement in this state arrives at any port or harbor
3 within any town in the state, the master thereof shall leave
4 a list of their names and of the places, from which they
5 came first on board with the overseers of the poor of such
6 town, before such passengers come on shore. And he shall
7 not land them without permission of the selectmen, unless
8 he has given bond to the town with sureties approved by
9 the selectmen in a sum not exceeding five hundred dollars
10 for each passenger to save the town harmless from all
11 expense on account of such passengers as paupers for three
12 years. The selectmen instead of such bond may require
13 payment of a sum not exceeding two dollars for each
14 passenger.

Masters of
vessels not to
land passengers
without consent,
give bond or
pay a sum per
head.

Idem,
§ 56, 57, 59,
1848, c. 40.

SECT. 40. The masters of such vessel for a violation of
2 any provision of the preceding section forfeits two hundred
3 dollars for each passenger coming on shore to be recovered
4 in an action of debt by any person suing therefor one half to
5 his own use and the other to the use of the state. A major-
6 ity of the overseers of the town, within which such vessel
7 arrived, may make a written complaint to a justice of the
8 peace of the county, that the master has not complied with
9 such provisions; and such justice may issue his warrant to
10 a proper officer requiring him to seize the vessel and detain
11 her, until said penalties and costs are paid. *If not paid*
12 *a libel is to be filed against such vessel alleging her for-*
13 *feiture for such landing of passengers and fourteen days*
14 *notice of the time and place of hearing is to be given to the*
15 *master and to the owners if known and within the state, and*
16 *on a hearing and proof of such violation a decree of for-*
17 *feiture is to be entered, (a) and a precept may be issued*
18 and the vessel be sold, as personal property taken on exe-
19 cution is sold, and after deducting the amount of penalties
20 and costs the balance be paid to the owner on demand.

Penalty for
violation. If
not paid, vessel
may be seized
and sold.

Idem, § 56.

SECT. 41. A town accessible by vessels may appoint visit-
2 ing officers, who on the arrival of a vessel with passengers
3 on board are to go on board of her and there remain, until
4 the provisions of the thirty-ninth section of this chapter be
5 complied with; and they are to prevent the landing of any

Towns may
appoint visiting
officers to
prevent
passengers
landing.

(a) Without the new provision, it is believed, the enactment would be unconstitutional and void. It would dispose of a man's property without any opportunity for trial, whether it had been forfeited for a violation of law.

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Idem, § 58.

Paupers may be removed to their places of settlement; proceedings.

R. S., c. 32, § 35.
1846, c. 11.

Record of proceedings; costs.

Idem, § 36.

Warrant for removal, how executed.

6 passenger in violation of such provisions; and to inform the
7 selectmen of any violation or attempt to violate such pro-
8 visions. They are to be paid by the master a reasonable
9 compensation to be fixed by the selectmen.

SECT. 42. All persons who have actually received relief
2 in the places wherein they are found, but in which they have
3 no lawful settlement, may be removed to the places of their
4 lawful settlements, if they have any within the state. In
5 order to effect such removal, and also to recover the ex-
6 penses incurred for the relief of such persons, if the over-
7 seers of the town where such persons are found, choose
8 that mode in preference to a civil action, said overseers may
9 apply by complaint to any justice of the peace in their
10 county, not an inhabitant of their town; and the said justice
11 is authorized to issue his summons, to be served as other
12 civil processes may be, upon the inhabitants of the town
13 where said person's settlement is alleged to be, and also
14 upon the party whose removal is contemplated, and upon
15 such witnesses as he may see fit. The said justice may
16 examine the said party, to be removed 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
19 for good cause may continue the process one or more
20 times, not exceeding three months in all; and after due ex-
21 amination and hearing, whether the town summoned appears
22 or not, shall proceed to give judgment for or against the
23 complainants and make a record thereof.

SECT. 43. In such cases costs shall be awarded in favor
2 of the prevailing party, except that in case of default, the
3 town summoned shall not be entitled to costs; and the
4 record shall state the decision of the justice, as to the town
5 where the party intended to be removed has his legal set-
6 tlement, and on the question of his removal, and the dam-
7 ages for expenses incurred by said town making complaint;
8 and the estimated expenses of removal, if such removal
9 shall be ordered, in addition to the costs above named.

SECT. 44. 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,
4 the constable of the town where such person is to be
5 removed, or to any individual by name, or all or any of
6 them, to be served; also requiring the overseers of the
7 poor of the town to which such person is to be sent, to
8 receive and provide for him, as an inhabitant of that town,

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9 a copy of which warrant shall be served on some one or
 10 more of said overseers. Such person may be transported
 11 either by land or water.

Idem, § 37.

SECT. 45. 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 execu-
 5 tion may be directed to and served by any officer in the
 6 county, where the town is against which it issues, qualified
 7 to serve executions in civil actions.

Overseers of town to which removed, to provide for him.

Idem, § 38.

SECT. 46. Either party, including the person ordered to
 2 be removed, aggrieved by the judgment aforesaid may appeal
 3 to the next supreme judicial court for the same county,
 4 which court shall have appellate jurisdiction of the case and
 5 hear and decide the same without a jury, unless either party
 6 require one; *provided* that the person to be removed may
 7 be required to enter into recognizance to prosecute his
 8 appeal with effect and other purposes, as is provided in
 9 civil actions. If the appeal be not entered said court may
 10 on complaint of the party prevailing before the said justice
 11 of the peace affirm the said judgment with additional dam-
 12 ages, if any have intervened, and costs.

Appeal from justice decision.

Idem, § 39

SECT. 47. Said overseers may at their election file their
 2 complaint, originally, in the supreme judicial court held in
 3 the county, where they reside, setting forth the facts of the
 4 case, and cause the adverse party to be summoned in time
 5 and manner as aforesaid, and also the person to be removed:
 6 and such court shall hear and decide the cause without a
 7 jury, unless either party require one, and grant a warrant
 8 and execution in the same manner as in cases coming before
 9 them by appeal; and in all their adjudications in the prem-
 10 ises they shall state the facts on which their judgment is
 11 founded, and if any error in law exists either party may
 12 cause the same to be corrected on error in the supreme
 13 judicial court, if the writ of error be sued out in one year
 14 after such judgment was rendered. If such should be
 15 affirmed the defendant in error shall recover his costs; if
 16 reversed, the plaintiffs shall be restored to all they have
 17 lost with costs.

Complaint may be first made to court; proceedings.

Idem, § 40.

SECT. 48. In all case of complaint, as provided for in the
 2 forty-second and forty-seventh sections of this chapter, depo-
 3 sitions may be used for any cause authorized in other civil
 4 actions, and the process shall not abate so far as respects
 5 the damages and costs by the decease of the person, whose

Depositions may be used; decision estops.

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Idem, § 41.

6 removal was applied for, pending the suit. A final decision
 7 on the question of settlement on any such complaint, shall
 8 estop the party against whom the decision is made, to con-
 9 test the settlement of such person in any future suit, of
 10 whatever nature, between the same towns. (a)

Chapter 25.**KEEPING WATCH AND WARD IN TOWNS, AND OF DISORDERS IN
STREETS AND PUBLIC PLACES.**

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

Who are liable
to keep watch
and ward.

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

R. S., c. 31, § 1.

Power of
selectmen and
justices to order
watch and ward
to be kept, and
proceedings.

SECT. 2. The justices of the peace resident in any town
 2 with the selectmen of such town shall have power from time
 3 to time to direct and order suitable watches to be kept
 4 nightly in such town from such hour in the evening, as they
 5 shall appoint, until sun rising in the morning: also wards to
 6 be kept in the day time and evening, whenever they shall
 7 think such watches and wards necessary; such justices and

(a) Sections 42 to 48 inclusive are regarded as useless and obsolete. They are placed where they may be omitted without injury to the other provisions. They are parts of a troublesome and expensive system for the removal of persons chargeable and likely to become chargeable. So much, as authorized the removal of those likely to become chargeable, was repealed in the year 1846. Those chargeable can be removed without any such proceedings, by the provisions in sections 27, 28. It is doubtful whether the proceedings authorized in these sections were ever resorted to for such a purpose, at least not for many years.

8 selectmen may designate the time, place, and number of
 9 persons to be employed in any such watch or ward; and
 10 they may give orders in writing accordingly signed by a
 11 major part of such justices and selectmen directed to any
 12 constable of the town requiring him to warn such watch or
 13 ward, and to see that all persons so warned do attend and
 14 perform their duty in the manner required; and in the warn-
 15 ing thereof to take care that some able householders, or
 16 other sufficient persons, be joined in each watch or ward.

R. S., c. 31, § 2.

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

Charge of
constable, and
powers of watch.

R. S., c. 31, § 3.

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

Duties of watch.

R. S., c. 31, § 4.

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

Badges of
constable and
watch.

R. S., c. 31, § 5.

SECT. 6. When the inhabitants of any town shall deter-
 2 mine, that a watch shall be kept in any other manner than
 3 is provided in this chapter, the expense thereof shall be
 4 defrayed in like manner as other town charges.

Expense of
watch otherwise
kept, how
defrayed.
R. S., c. 31, § 6.

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

Proceedings in
such case.

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6 the watch: and every watchman shall be equipped in such
 7 manner, as the selectmen of the several towns shall deter-
 8 mine; and the powers and duties of said officers and watch-
 9 men shall be the same as are before prescribed in the case
 10 of a constable's watch.

R. S., c. 31, § 7.

Penalty for
neglect of duty
by a watch.

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

R. S., c. 31, § 8.

Penalty for
neglect of
constable or
officer.

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

R. S., c. 31, § 9.

Constable and
watchmen to
attend justices
when walking
the rounds.

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

R. S., c. 31, § 10.

Penalty for
riding with a
naked scythe.

SECT. 11. If any person shall ride with a naked scythe,
 2 sharpened and hung in a snath on the highways, or in any
 3 lanes, streets, or alleys, he shall forfeit for each offense two
 4 dollars.

R. S., c. 31, § 11.

Certain
pageantry
prohibited in
streets in the
night.

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

R. S., c. 31, § 12.

Bonfires in
streets and towns
prohibited.

SECT. 13. If any person shall set fire to any pile of com-
 2 bustible stuff, or be in any wise concerned in causing or
 3 making a bonfire in any street or lane, or any other part of
 4 any town, such fire being within ten rods of any house or
 5 building, he shall for each offense forfeit the sum of eight
 6 dollars, or be imprisoned for a term not exceeding one
 7 month.

R. S., c. 31, § 13.

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

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Fines, how
recovered and
appropriated.

R. S., c. 31, § 14.

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

Masters and
parents liable for
minors.

R. S., c. 31, § 15.

Chapter 26.

ENGINE MEN, FIRES, AND THE PREVENTION OF FIRES.

ENGINE MEN AND FIRES.

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

PREVENTION OF FIRES.

11. Penalty for occupying tenement for sail maker, rigger, or livery stable,
 except as municipal officers direct.
12. Municipal officers, on complaint and proof, to direct defective chimneys,
 stove pipes, and other fire apparatus to be removed or repaired under a
 penalty.
13. Penalty for lighting or smoking pipe or cigar in mills, factories, shops, ship-
 yards, bridges and stables, provided a notice is kept up at each entrance.
 Penalty for destroying such notice.
14. Penalty for kindling fire on land without consent of owner; also, in case fire
 shall spread and do damage to others.
15. Penalty for kindling fire, with intent to injure another, when the property of
 another is thereby injured.

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- Sect. 16.* Lawful fires, on one's own land, to be kindled at suitable time and in careful manner. Liability for all damages if not so done.
17. Lumber drivers may kindle fires, but with the utmost caution. Penalty if they kindle them otherwise.
18. Common law remedy not taken away, except in case provided for in preceding section, but party can only pursue one remedy.
19. Municipal officers to make regulations respecting gunpowder. Penalty for keeping it in violation thereof, and forfeiture and seizure of the powder.
20. Persons injured by explosion of powder, kept contrary to law, may recover damages.
21. Power of municipal officers, with a warrant, to search for illegal gunpowder.
22. Regulations respecting gunpowder not to be in force till published.
23. Penalties, how recovered and appropriated.

Engine men and fires.

Appointment of engine men in towns where there is an engine for public use, and the number to each engine.

R. S., c. 33, § 1.

Engine men excused from serving as jurors, &c.

R. S., c. 33, § 3, 5, 22.

Officers appointed under special laws to have the same powers as fire wards, &c.

R. S., c. 33, § 6.

Engine companies to meet once a month, and promptly endeavor to extinguish any fire that may occur in their town.

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

SECT. 2. Such engine men shall be excused from serving as jurors in any court, unless their towns otherwise decide; continue in office during the pleasure of the municipal officers; meet annually to elect such officers, as shall be deemed necessary to give efficiency to their operations; establish such rules and regulations respecting their duty, as shall be approved by said municipal officers and not repugnant to the laws of the state, and affix penalties to be recovered by their clerk not exceeding six dollars for any one offense.

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

SECT. 4. When any engine man or any member of a company organized under special laws shall be negligent in the discharge of his duties in the opinion of the municipal officers, it shall be their duty on proof thereof to discharge him from the said company, and appoint some other person in his stead; and they may in their discretion select from the engine men any number for each engine in said town, whose duty it shall be under the direction of the fire wards

9 to attend fires therein with axes, fire hooks, fire sails, and
 10 ladders, and perform such further duty, as said officers shall
 11 from time to time prescribe.

CHAP. 26.

R. S., c. 33,
 § 7, 8.

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

Discharge of
 negligent engine
 men, and
 selection of
 engine men for
 other duties at
 fires.

R. S., c. 33, § 9.

SECT. 6. When a fire shall break out in any town, the fire
 2 wards shall immediately attend at the place with their badges
 3 of office; and when there any three of them shall have
 4 power to direct any building to be pulled down or demol-
 5 ished, as they may judge necessary to prevent the spreading
 6 of the fire; but in their absence the major part of the mu-
 7 nicipal, or any two civil or military officers present, shall,
 8 in the order they are named, have the same power.

Election of fire
 wards, notice to
 same, and pen-
 alty for not
 entering accept-
 ance or refusal
 of office in
 three days.

R. S., c. 33,
 § 10, 11, 12.

SECT. 7. During the continuance of any fire said fire
 2 wards or other officers shall have power to require assist-
 3 ance in extinguishing the fire and removing merchandize and
 4 furniture, and to appoint guards to secure the same and
 5 aid in pulling down or demolishing buildings and suppress-
 6 ing disorder and tumult and generally to direct all opera-
 7 tions to prevent further destruction or damage; and any
 8 person refusing to obey their orders shall forfeit the sum of
 9 ten dollars.

Duty of fire
 wards, and in
 their absence of
 other civil and
 military officers
 to direct pro-
 ceedings at fires.

R. S., c. 33,
 § 13, 14.

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

Powers of fire
 wards to require
 aid, appoint
 guards and
 suppress
 tumults; and
 penalty for
 refusing to obey
 them.

R. S., c. 33,
 § 4, 23.

SECT. 9. If the pulling down or demolishing any building,
 2 except that in which the fire originated, shall be the means
 3 of stopping the fire, or if the fire be stopped before it shall
 4 come to the same, then the owner of such building shall be

Compensation to
 owner of build-
 ing demolished,
 whereby fire is
 stopped.
 Exception.

CHAP. 26.

Person dissatisfied may apply to county commissioners. Their powers.

R. S., c. 33,
§ 15, 16, 17.

Plundering at fires declared larceny.

R. S., c. 33, § 18.

5 entitled to a reasonable compensation therefor from the
6 town; and if such town fail to make such compensation to
7 his satisfaction, he may apply to the county commissioners
8 at their next session; and they shall have power after due
9 notice to the parties, to confirm the doings of the town in
10 estimating the amount of compensation, or in raising the
11 money and paying the same, or to alter the same, as they
12 shall judge proper, award costs to the prevailing party, and
13 issue their warrant of distress to carry their judgment into
14 effect.

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

Prevention of fires.

Penalty for occupying tenement for sail maker, rigger or livery stable, except as municipal officers direct.

R. S., c. 33,
§ 19, 20.

Municipal officers, on complaint and proof, to direct defective chimneys, stove pipes, and other fire apparatus to be removed or repaired under a penalty.

SECT. 11. No person shall occupy any tenement in any maritime town for the business of a sail maker, rigger, or keeper of a livery stable, except only in such part of the town, as the municipal officers shall direct; and any person who shall offend against this section, shall forfeit ten dollars a month during the continuance of such occupancy with costs.

SECT. 12. When any chimney, stove, stove pipe, oven, furnace, boiler, or appurtenances thereto, in any town shall be defective, out of repair, or so placed in any building as to endanger the same or any other building by communicating fire thereto, the municipal officers on complaint of any fire ward or other citizen of such town being satisfied by examination or other proof, that such complaint is well founded, shall give notice in writing to the owner or occupier of the building, in which such stove or other apparatus is placed, and if he shall unnecessarily neglect for three days to remove or repair the same effectually, he shall forfeit not less than ten or more than one hundred dollars.

1852, c. 218.

Penalty for lighting or smoking pipe or cigar in mills, factories, shops, ship yards, bridges, stables, &c.

SECT. 13. No person shall enter any mill, factory, machine shop, ship yard, covered bridge, stable or other building, having with him a lighted pipe or cigar, or shall light or smoke any pipe or cigar therein, under a penalty of five dollars; *provided* a notice in plain and legible characters shall be kept up in a conspicuous position over or near each principal entrance to such building or place, that no

8 smoking is allowed in the same; and if any person shall
 9 deface remove or destroy any such notice, he shall forfeit
 10 ten dollars.

CHAP. 26.

1848, c. 39, § 1, 2.

SECT. 14. If any person shall kindle a fire by the use of
 2 fire arms in hunting or fishing or by any other means on
 3 land not his own without consent of the owner, he shall
 4 forfeit ten dollars; and if such fire shall spread and do any
 5 damage to the property of others, he shall forfeit a sum not
 6 less than ten or more than five hundred dollars and costs
 7 according to the aggravation of the offense; and, in either
 8 case shall stand committed till the fine and costs are paid.

Penalty for
kindling fire on
land without
consent of
owner, &c.1855, c. 132,
§ 1, 2, 5.

SECT. 15. If any person with intent to injure another
 2 shall kindle or cause to be kindled a fire on his own or
 3 another's land, and thereby the property of any other per-
 4 son shall be injured or destroyed, he shall be punished by a
 5 fine of not less than twenty or more than one thousand dol-
 6 lars, or by imprisonment not less than three months or more
 7 than three years according to the aggravation of the offense.

Penalty for
kindling fire,
with intent to
injure
another, &c.

1355, c. 132, § 3.

SECT. 16. Whoever shall for a lawful purpose kindle a
 2 fire on his own land shall do so at a suitable time and in a
 3 careful and prudent manner; and shall be liable in an action
 4 on the case to any person injured by his failure to comply
 5 with the provisions of this section.

Lawful fires, on
one's own land,
to be kindled at
suitable
time, &c.

1855, c. 132, § 4.

SECT. 17. Persons engaged in driving lumber upon any
 2 waters may kindle fires, when necessary for the purposes in
 3 which they are engaged, but shall be bound to use the utmost
 4 caution to prevent the same from spreading and doing dam-
 5 age, and if they fail so to do, they shall be subject to all
 6 the liabilities and penalties hereof in the same manner, as if
 7 the privilege granted by this section had not been allowed.

Lumber drivers
may kindle
fires, but with
the utmost
caution, &c.

1855, c. 132, § 6.

SECT. 18. The common law right to an action for damages
 2 done by fires is not hereby taken away or diminished, but it
 3 may be pursued notwithstanding the penalties herein set
 4 forth, but any person availing himself of the provisions of
 5 the sixteenth section shall be barred of his action at com-
 6 mon law for the damage so sued for. And no action shall
 7 be brought at common law for kindling fires in the manner
 8 described in the seventeenth section, but if any such fire
 9 shall spread and do damage, the person who kindled the
 10 the same and any person present and concerned in driving
 11 the lumber, by whose act or neglect such fire is suffered to
 12 do damage, shall be liable in in action on the case for the
 13 amount of damage thereby sustained.

Common law
remedy not
taken away,
except in case
provided for in
preceding sec-
tion, but party
can only pursue
one remedy.

1855, c. 132, § 7.

CHAP. 27.

Municipal officers to make regulations respecting gunpowder. Penalty for keeping it in violation thereof, and forfeiture and seizure of the powder.

R. S., c. 34, § 1, 2, 3.

Persons injured by explosion of powder, kept contrary to law, may recover damages.

R. S., c. 34, § 4.

Power of municipal officers, with a warrant, to search for illegal gunpowder.

R. S., c. 34, § 5.

Regulations respecting gunpowder not to be in force till published.

R. S., c. 34, § 8.

Penalties, how recovered and appropriated.

R. S., c. 33, § 1.
R. S., c. 34, § 7.

SECT. 19. In every town the municipal officers are authorized to make regulations, in conformity to which all gun powder within the town shall be kept, or transported from place to place; and no person shall keep any gun powder in any other quantity or manner, than is prescribed in such regulations, under a penalty of not less than twenty or more than one hundred dollars for each offense; and all such gun powder may be seized by any of said officers as forfeited; and within twenty days after such seizure be libeled according to law.

SECT. 20. Any person injured by the explosion of gun powder in possession of any person in any town contrary to the regulations established therein as aforesaid may have an action for damages against the person having such possession at the time of the explosion, or against the owner thereof, if conusant of such neglect.

SECT. 21. Any municipal officer shall have authority to enter any building or other place in his town to search for gun powder supposed to be concealed there contrary to law; having first obtained a search warrant for the purpose in due form.

SECT. 22. The rules and regulations, which shall be established in any town according to the nineteenth section, shall not be in force, till they have been published three weeks successively in a newspaper in the county, or by posting up attested copies of them in three public places in such town.

SECT. 23. The penalties provided for in this chapter may be recovered by complaint, indictment, or action of debt, in any court of competent jurisdiction, one-half to the use of the town where the offense is committed, and the other half to the use of the person prosecuting therefor.

Chapter 27.**INNOLDERS AND VICTUALERS.**

- Sect.* 1. Licenses to innholders and victualers, when and by whom granted.
 2. Persons licensed to give bond; form thereof.
 3. Licenses may be granted for a part of the year in certain cases.
 4. Fee for license, and record of all licenses.
 5. Duty of innholders to provide entertainment.
 6. Duty of victualers.
 7. Innholders and victualers to keep up signs with their names and employments.
 8. Not to keep instruments of gaming, or allow any gaming on their premises.
 Penalty for gaming in said premises.
 9. Reveling, disorderly conduct and drunkenness prohibited in such premises.

Sect. 10. Penalty for being a common innholder or victualer without a license.

11. Duty of licensing board to prosecute for all violations hereof. Penalties, how recovered and appropriated.

Licenses to innholders and victualers, when and by whom granted.

SECT. 1. The selectmen treasurer and clerk of every town
2 shall annually meet on the first Monday of May, or on the
3 succeeding day, or both, and at such time and place in said
4 town as they may appoint by posting up notices in two or
5 more public places therein at least seven days previously
6 stating the purpose of the meeting; and at such meeting
7 may license under their hands as many persons of good
8 moral character, and under such restrictions and regulations
9 as they may deem necessary, to be innholders and victualers
10 in said town, until the day succeeding the first Monday in
11 May of the next following year, in such house or other
12 building, as the license may specify.

R. S., c. 36, § 1.

SECT. 2. No person shall be entitled to receive his license,
2 until he shall have given his bond to the said treasurer to
3 the acceptance of the board granting the same with one or
4 more sureties in the penal sum of three hundred dollars in
5 substance as follows, viz:

Persons licensed to give bond; form thereof.

6 "Know all men, that we, —, as principal, and —, as
7 sureties, are holden and stand firmly bound to —, treas-
8 urer of the town of —, in the sum of three hundred dol-
9 lars, to be paid to him, or his successor in said office; to
10 the payment whereof we bind ourselves, our heirs, executors,
11 and administrators, jointly and severally by these presents.
12 Sealed with our seals. Dated the — day of —, in the
13 year 18—. The condition of this obligation is such, that
14 whereas the above bounden — has been duly licensed as
15 a — within the said town of —, until the day succeed-
16 ing the first Monday of May next; now if the said —
17 shall, in all respects, conform to the provisions of the law
18 relating to the business for which he is licensed, and to such
19 rules and regulations as have been provided by the board
20 granting his license, in reference thereto, then this obliga-
21 tion shall be void, otherwise shall remain in full force."

R. S., c. 36, § 2.

SECT. 3. The said licensing board may at any other time
2 at a meeting specially called and notified as aforesaid for the
3 consideration of any application therefor to them made
4 grant such license on the like conditions; but all such
5 licenses shall expire on the day aforesaid.

Licenses may be granted for a part of the year in certain cases.

R. S., c. 36, § 3.

SECT. 4. Every person licensed shall pay to the treasurer
2 for the use of the board granting the license one dollar;

Fee for license, and record of all licenses.

CHAP. 27.

R. S., c. 36, § 4.

Duty of innholders to provide entertainment.

3 and the clerk shall make a record of all the licenses
4 granted.

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

R. S., c. 36, § 5.

Duty of victualers.

SECT. 6. Every victualer shall have all the rights and
2 privileges and be subject to all the duties and obligations
3 of an innholder excepting that he shall not be required to
4 furnish lodging for travelers, nor stable room hay or prov-
5 ender for cattle.

R. S., c. 36, § 6.

Innholders and victualers to keep up signs with their names and employments.

SECT. 7. Every innholder and victualer shall at all times
2 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.

R. S., c. 36, § 7.

Not to keep instruments of gaming, or allow any gaming on their premises, &c.

SECT. 8. No innholder or victualer shall have or keep
2 about his house, shop, or other buildings, yards, gardens, or
3 dependencies, any dice, cards, bowls, billiards, quoits, or
4 other implements used in gaming; or suffer any person
5 resorting thither to use or exercise any of said games, or
6 any other unlawful game or sport therein; and every person
7 who shall use or exercise any such game or sport in any
8 place herein prohibited, shall forfeit five dollars.

R. S., c. 36, § 8, 9.

Reveling, disorderly conduct, drunkenness prohibited, &c.

SECT. 9. No innholder or victualer shall suffer any revel-
2 ing, riotous, or disorderly conduct in his house, shop, or
3 other dependencies; nor shall suffer any drunkenness or
4 excess therein.

R. S., c. 36, § 10.

Penalty for being a common innholder or victualer without a license.

R. S., c. 36, § 17.

SECT. 10. No person shall be a common innholder or
2 victualer without being licensed as aforesaid under a pen-
3 alty of not more than fifty dollars.

Duty of licensing board to prosecute for all violations, &c.

SECT. 11. It shall be the duty of the licensing board to
2 prosecute for any violations of this chapter, that shall come
3 to their knowledge by complaint, indictment, or action of
4 debt, in any court of competent jurisdiction; and all pen-
5 alties recovered shall be for the use of the town, where the
6 offense is committed.

R. S., c. 36, § 19, 20, 21.

Chapter 28.

CHAP. 28.

REGULATION OF THE MANUFACTURE AND SALE OF INTOXICATING LIQUORS; AND THE SUPPRESSION OF DRINKING HOUSES AND TIPLING SHOPS.

- Sect.* 1. The sale of intoxicating liquor forbidden, except as provided.
2. Manufacture regulated, bond given.
 3. Manufacture forbidden, except as provided.
 4. Importation and sale as prescribed in revenue laws not prohibited.
 5. Physicians and apothecaries may use and sell in forms not usable for drink.
 6. Persons may be licensed to sell, bond to be given.
 7. Innholders, sale by them regulated, or forbidden.
 8. Persons, to whom sales cannot be made.
 9. Municipal officers to notify those licensed not to sell to certain persons.
 10. Persons licensed to give bond before sale.
 11. Violations of the law, how punished.
 12. Not to be furnished to persons described.
 13. Sales forbidden by persons not licensed.
 14. Common sellers, who are, and how punished.
 15. Drinking houses and tipling shops prohibited.
 16. What places are such.
 17. Punishment for keeping them.
 18. Debts created by sales not collectable, exception.
 19. Duty of municipal officers to prosecute.
 20. Persons selling to those intoxicated liable for injuries committed by them.
 21. Same.
 22. Sale of adulterated liquors forbidden.
 23. Appeal and conviction on three complaints, punishment.
 24. Lessors of buildings for sale of liquors, how punished.
 25. Lessees for selling forfeit leases.
 26. Courts having jurisdiction of offenses.
 27. Distillers not to use leaden utensils, no person to make them.
 28. Towns may choose assayers, their duties.
 29. Distillers to procure certificates of assayers, their powers, compensation.
 30. Penalties, how recovered.

SECT. 1. No person shall be allowed at any time to sell,
2 by himself, his clerk, servant, or agent, directly or indirectly,
3 any intoxicating liquors, except as hereinafter provided.

Sale of intoxicating liquor forbidden, except as provided. 1856.

SECT. 2. No person shall be allowed to manufacture
2 intoxicating liquors within this state, unless he shall first
3 give a bond in the sum of one thousand dollars with good
4 and sufficient sureties payable to and to be filed with the
5 treasurer of the city or town, within which such manufactory
6 shall be established, and to be to the satisfaction and ap-
7 proval of the aldermen of such city or the selectmen of such
8 town, conditioned that he will in all things conform to the
9 requirements of the four last sections of this chapter; that
10 he will not sell any intoxicating liquors except of his own
11 manufacture; that he will not by himself or another in any
12 mode adulterate such liquors either by coloring matter or
13 any other drug or ingredient; that he will not sell any
14 intoxicating liquors in quantities less than thirty gallons
15 delivered in a single vessel and carried away at one time,

Manufacture regulated, bond given.

CHAP. 28.

16 and that he will not sell any intoxicating liquors to any
 17 person residing in this state, except to such persons, as are
 18 authorized by this chapter to sell the same.

Manufacture
 forbidden, except
 as provided.

SECT. 3. Any person who shall manufacture within this
 2 state any intoxicating liquors without first giving the bond
 3 provided in the foregoing section, shall forfeit the sum of
 4 one thousand dollars to be recovered by indictment to the
 5 use of the state. And if any person, who has given such
 6 bond, shall commit any breach of the conditions thereof, it
 7 shall be the duty of the aldermen and selectmen respect-
 8 ively of the city or town, within which such manufactory
 9 shall be established, to cause the same to be put in suit and
 10 prosecuted to final judgment and satisfaction.

Importation and
 sale, as pro-
 scribed in
 revenue laws,
 not prohibited.

SECT. 4. The provisions of this chapter respecting the
 2 sale of intoxicating liquors shall not extend to wine or
 3 spirituous liquors, which shall have been imported into the
 4 United States from any foreign port or place when sold by
 5 the importers in quantities not less than are prescribed by
 6 the revenue laws of the United States for importation, and
 7 delivered and carried away at one time in the packages, in
 8 which the same were imported; nor to the manufacture and
 9 sale of cider or of wine made from fruit grown in this state.

Physicians and
 apothecaries
 may use and sell
 in forms not
 usable for drink.

SECT. 5. Physicians, apothecaries, and druggists, chemists,
 2 artists, and manufacturers, may purchase alcoholic liquors
 3 from manufacturers within this state, and may sell the same
 4 when combined with other ingredients in the necessary pro-
 5 portions to form such compounds, as are sold in the proper
 6 exercise of their art, trade or profession, and which cannot
 7 be used for drink; all persons may sell in the ordinary
 8 course of trade such articles compounded in part of alcohol,
 9 as cannot be used for drink.

Aldermen and
 city clerk in
 cities. Select-
 men, treasurer
 and clerk of
 towns, may
 license persons
 to sell.

SECT. 6. The aldermen and city clerk in any city, the
 2 selectmen treasurer and clerk in any town, and the assess-
 3 ors treasurer and clerk in any plantation, may authorize
 4 persons to sell intoxicating liquors within their respective
 5 cities, towns, and plantations, not exceeding the number of
 6 such persons hereinafter prescribed, if application shall be
 7 made by suitable persons in writing therefor. In every city,
 8 town, and plantation, at least one person and not more than
 9 two shall be so authorized; in every city and town having
 10 more than three thousand and less than eight thousand
 11 inhabitants, such authority may be given to three additional
 12 persons; and in every city and town having more than eight
 13 thousand inhabitants, two persons additional may be so

14 authorized for every additional three thousand inhabitants;
 15 the enumerations aforesaid, being ascertained in all such
 16 cases by the last preceding census. Whenever the city and
 17 town officers aforesaid shall deem it proper, they may also
 18 authorize apothecaries in their respective cities and towns
 19 to sell intoxicating liquors for medical purposes only upon
 20 the written prescription of a physician, and upon their giv-
 21 ing bond as provided in the tenth section of this chapter.
 22 All such authority shall be limited to and shall expire on
 23 the first day of May next after the granting of the same.
 24 But no person authorized under this section shall sell any
 25 such intoxicating liquors to be drank in the place where
 26 sold, or in any place in the vicinity thereof, which is under
 27 the control of the person so selling.

SECT. 7. Innholders duly licensed as such may also be
 2 authorized in like manner within their respective cities,
 3 towns, and plantations, to sell intoxicating liquors only to
 4 travelers and strangers, who shall be the guests and lodgers
 5 of such innholders. But no such innholder shall be allowed
 6 to keep a bar for selling such liquors, or to sell the same in
 7 any other manner, than is in this section provided. The
 8 authority granted under this and the preceding section shall
 9 be limited to such place or building, as shall be specified in
 10 every case for the sale of such liquors, and the person so
 11 authorized shall not be allowed to sell the same, directly or
 12 indirectly, in any other place or building.

Innholders, sale
by them
regulated or
forbidden.

SECT. 8. No person, authorized as aforesaid to sell intox-
 2 icating liquors, shall sell such liquors to any minor without
 3 the direction in writing of his parent, master, or guardian,
 4 to any Indian, to any soldier in the army, to any drunkard, to
 5 any intoxicated person, or to any such persons as are liable,
 6 being of full age, to have guardians appointed for them by a
 7 judge of probate, knowing them respectively to be of the
 8 condition herein prescribed; nor to any intemperate per-
 9 son, of whose intemperate habits he has been notified by
 10 the relatives of such person, or by the aldermen, selectmen,
 11 or assessors, respectively of any city, town, or plantation.
 12 And proof of notice so given by aldermen, selectmen, or
 13 assessors, or by their authority, shall be conclusive of the
 14 fact of the intemperate habits of such person in any pros-
 15 ecution or suit under this chapter; and notice so given by
 16 the relatives of such person shall be presumptive evidence
 17 of such habits.

Persons to
whom sales
cannot be made.

CHAP. 28.

Municipal
officers to give
notice to those
licensed not to
sell to certain
persons.

Persons licensed
to give bond
before sale.

Violations, how
punished.

Not to be
furnished to
persons
described.

Sales forbidden
by those not
licensed.

SECT. 9. It shall be the duty of the aldermen, selectmen,
2 and assessors aforesaid, whenever they shall be informed by
3 the relatives of any person, that he is of intemperate habits,
4 and shall be satisfied, that such is the fact, forthwith to give
5 notice thereof to all persons authorized to sell intoxicating
6 liquors within their respective cities, towns, and plantations,
7 and in such adjoining places, as they may deem expedient.

SECT. 10. No person authorized to sell intoxicating liquors
2 as aforesaid, shall make any sale under such authority, un-
3 less he shall first give bond in the sum of four hundred dol-
4 lars, to the city, town, or plantation, wherein he is so
5 authorized, with two good and sufficient sureties, to be
6 approved by the aldermen, selectmen, and assessors thereof,
7 respectively, conditioned that he will not violate any of the
8 provisions of this chapter.

SECT. 11. Any person, authorized as aforesaid, who shall
2 violate any of the provisions of the seventh or eighth sec-
3 tions of this chapter, shall be punished, on conviction there-
4 for, by a fine not exceeding twenty dollars for every such
5 offense; and shall also be liable, notwithstanding such con-
6 viction and punishment, to a suit upon his bond given afore-
7 said; and it shall be the duty of the aldermen, selectmen,
8 or assessors, respectively, of the city, town, or plantation,
9 to which such bond was given, to cause the same to be put
10 in suit and prosecuted to judgment and satisfaction to the
11 use of the city, town, or plantation. The court, by which
12 judgment shall be rendered upon any such bond, or upon any
13 bond required to be given by this chapter, shall have such
14 chancery powers therein, as the supreme judicial court now
15 has in cases of forfeiture of penalties to the state. And
16 whenever any such conviction shall be obtained or judgment
17 recovered as aforesaid, all the authority of such person to
18 sell intoxicating liquors shall be absolutely vacated; and it
19 shall be the duty of the aldermen, selectmen, and assessors
20 respectively, to revoke such authority, whenever they shall
21 be satisfied of any violation of the conditions of the same.

SECT. 12. No person shall procure and furnish any intox-
2 icating liquors for the use of any of the persons to whom
3 the sale of such liquors is forbidden by law; and for a vio-
4 lation of the provisions of this section the offender shall be
5 punished by fine not exceeding twenty dollars.

SECT. 13. If any person not duly authorized as aforesaid
2 shall sell, by himself, or his agent, any intoxicating liquors,

3 he shall be punished for every such offense by a fine not
4 exceeding twenty dollars.

SECT. 14. Any person, against whom three several unlaw-
2 ful sales of intoxicating liquors, within the time laid in the
3 indictment therefor, shall be proved under such indictment,
4 shall be held to be a common seller of intoxicating liquors,
5 and may be convicted thereof upon indictment. If any per-
6 son, who has been twice convicted of unlawful sales of intox-
7 icating liquors against the provisions of this chapter, shall
8 commit a third offense against the same within six months
9 subsequent to the last of such convictions, he shall be liable
10 to be indicted as a common seller of intoxicating liquors; and
11 proof of such third offense, and of such two former convic-
12 tions shall be sufficient evidence to sustain such indictment.
13 Any person convicted of being a common seller as aforesaid
14 shall be punished by fine not exceeding one hundred dollars,
15 or by imprisonment not exceeding six months.

Common sellers,
who are, and
how punished.

SECT. 15. No person shall keep a drinking house or tip-
2 pling shop within this state.

Drinking houses
and tippling
shops prohibited

SECT. 16. The offense of keeping a drinking house or
2 tippling shop consists in selling intoxicating liquors in any
3 place, except an inn the keeper of which is duly licensed as
4 an innholder and authorized under the seventh section of
5 this chapter, and allowing the same to be drank in the place
6 where sold, or in any place in the vicinity thereof, which is
7 under the control of the person so selling.

What places are
such.

SECT. 17. Any person convicted of keeping a drinking
2 house or tippling shop shall be punished by fine not exceed-
3 ing two hundred dollars, or by imprisonment not more than
4 one year.

Punishment for
keeping them.

SECT. 18. No action shall be maintained upon any claim
2 or demand, promissory note, or other security, given for
3 intoxicating liquors sold in violation of the provisions of
4 this chapter; but the provisions of this section shall not
5 extend to negotiable paper in the hands of any holder for a
6 valuable consideration and without notice of the illegality of
7 the contract.

Debts created by
sale, not
collectable,
exception.

SECT. 19. It shall be the duty of the aldermen, selectmen,
2 and assessors, respectively, in every city, town, and planta-
3 tion, to prosecute for all violations of this chapter.

Municipal
officers to
prosecute.

SECT. 20. If any person authorized under this act as
2 aforesaid to sell intoxicating liquors shall sell the same to
3 a drunkard, or to any one while intoxicated, knowing them
4 to be such, or shall sell any such liquors to any person to

Persons selling
to those intox-
icated liable to
injuries com-
mitted by them.

CHAR. 28.

5 whom by the eighth section of this chapter he is forbidden
 6 to sell the same, he shall be liable for all the injuries, which
 7 such drunkard or intoxicated person, or person to whom
 8 liquors are forbidden to be sold as aforesaid, shall commit,
 9 while in a state of intoxication arising from drinking the
 10 liquors sold as aforesaid, in an action on the case in favor
 11 of the person injured.

Same.

SECT. 21. If any person not authorized as aforesaid shall
 2 sell any intoxicating liquors to any person, he shall be lia-
 3 ble for all the injuries, which such person may commit while
 4 in a state of intoxication arising from drinking the liquors
 5 aforesaid in an action on the case in favor of the person
 6 injured.

Sale of adulterated liquors forbidden.

SECT. 22. No person shall sell within this state any intox-
 2 icating liquors, which are impure or adulterated. If any
 3 person shall violate the provisions of this section, he shall
 4 be punished by fine not exceeding one hundred dollars.

Conviction on appeal on three complaints, punishment.

SECT. 23. If any person shall appeal from a judgment of
 2 a justice of the peace or judge of a municipal or police
 3 court, upon complaint for any unlawful sale of intoxicating
 4 liquors, and shall be convicted at the same term of the
 5 appellate court upon three such complaints, he shall be
 6 deemed a common seller of intoxicating liquors, and shall
 7 be punished by fine or imprisonment, as provided in the
 8 fourteenth section of this chapter.

Lessors of buildings for sale of liquors, how punished.

SECT. 24. Any person, who shall lease or let any building
 2 to another, or make any contract for the use and occupation
 3 of any building by another, knowing that intoxicating liquors
 4 are to be sold therein by such tenant or occupant contrary
 5 to law, shall be punished by fine therefor, not exceeding five
 6 dollars for every day, that such liquors may be sold therein,
 7 to be recovered by complaint or indictment.

Lessees forfeit leases by selling.

SECT. 25. If the tenant or occupant of any building, under
 2 any lease or contract for use and occupation made subse-
 3 quently to the time this chapter shall take effect, shall sell
 4 any intoxicating liquors therein contrary to law, his estate
 5 in the premises shall thereby be determined, and the owner
 6 of the building may recover possession thereof according to
 7 law without any notice to quit.

Courts having jurisdiction of offenses.

SECT. 26. Justices of the peace and judges of municipal
 2 and police courts shall have jurisdiction by complaint of all
 3 prosecutions under this chapter, where the penalty provided
 4 for the offense cannot exceed twenty dollars and may try
 5 the same and pass sentence thereon. But where the pun-

ishment may be by fine exceeding twenty dollars, or by imprisonment, the prosecution shall be by indictment, and the magistrates aforesaid, shall have power upon complaint in such cases to examine and bind over, as in other cases of offenses, which are subject to indictment.

SECT. 27. No person shall distil or draw off any distilled spirit through leaden heads, worms, or pipes. No person shall make any worm or head for such purpose of base pewter, or of such, as has any mixture of lead in it.

Distillers not to use leaden utensils. Not to be made for such use.

SECT. 28. Towns at their annual meetings may choose assay masters, who are to be sworn to inspect and try such heads and worms; and if found to be of lead or other base metal, they are to give notice thereof to a distiller using them, and they are not to be afterwards used by him.

Towns may choose assayers, their duties.

SECT. 29. Every distiller is to produce a certificate from an assay master so chosen, that he has tried, approved, and marked, all pewter heads and worms used for distilling. The assay master may enter any place, where such utensils are used or kept and cut off so much, as may be needful to make an assay. He is to use a stamp prepared by the town to mark them; and is to be paid by the distiller one dollar for his certificate, which is to be entered of record by the town clerk, whose fee is ten cents.

Distillers to procure certificates of assayers.

Assayers' powers, compensation.

SECT. 30. For a violation of any provision of the twenty-seventh or twenty-eighth section of this chapter the person forfeits three hundred dollars one half to the prosecutor and the other to the town.

Penalties.

Chapter 29.

PUBLIC EXHIBITIONS, BOWLING ALLEYS, AND BILLIARD ROOMS.

PUBLIC EXHIBITIONS.

Sect. 1. Penalty for exhibiting pageantry, slight of hand tricks, circuses, shows, or theatrical performances, without a license. Permanent museums not included.

2. Licenses how granted; fee therefor; time allowed for performance; penalties how recovered and appropriated.

BOWLING ALLEYS.

3. Penalty for keeping bowling alley without a license, and how recovered and appropriated.

4. Licenses how granted and fees therefor.

5. Persons licensed to give bond, and conditions thereof.

6. If conditions of bond violated, license to be revoked and payment of bond enforced, and person not to be licensed again.

CHAP. 29.

BILLIARD ROOMS.

7. Penalty for admitting minors to play billiards, or allowing persons to play after six o'clock Saturday, or ten o'clock other evenings.
 8. Penalty for obstructing officers from entering billiard rooms to enforce the laws. Penalties how recovered and appropriated.

Public exhibitions.

Penalty for exhibiting pageantry, slight of hand tricks, circuses, shows, or theatrical performances, without a license, &c.

R. S., c. 39, § 1, 3.
1847, c. 16.

Licenses, how granted; fee therefor, &c.

R. S., c. 39,
§ 2, 4, 5.
1849, c. 138.

SECT. 1. If any person for money or other valuable article
 2 shall exhibit in this state any images, pageantry, slight of
 3 hand tricks, puppet show, circus, feats of balancing, wire
 4 dancing, personal agility, dexterity, or theatrical perform-
 5 ances, without a license therefor as hereinafter provided, he
 6 shall forfeit for every such offense a sum not exceeding one
 7 hundred nor less than ten dollars; but this prohibition shall
 8 not extend to any permanently established museum.

SECT. 2. The municipal officers of towns may grant
 2 licenses for any of the foregoing exhibitions or perform-
 3 ances therein, on receiving for the use of their town such
 4 sum as they may deem proper; twenty-four hours being
 5 allowed for the same; and it shall be their duty to pros-
 6 ecute by an action of debt in the name and for the use of
 7 their town all persons violating the provisions of section
 8 one.

Bowling alleys.

Penalty for keeping bowling alley without license, &c.

1855, c. 167,
§ 1, 5.

Licenses how granted and fees therefor.

1855, c. 167,
§ 2, 6.

Persons licensed to give bond, and conditions thereof.

SECT. 3. No person shall keep a bowling alley without a
 2 license under a penalty of ten dollars for each day to be
 3 recovered in an action of debt by any person suing therefor,
 4 one half to his own use, and the other to the use of the
 5 town, where the offense is committed.

SECT. 4. The municipal officers of towns may license suit-
 2 able persons to keep bowling alleys therein in any place,
 3 where it will not disturb the peace and quiet of any family,
 4 for which the person licensed shall pay ten dollars to the
 5 use of such town.

SECT. 5. Every person so licensed shall, at the time he
 2 receives his license, give a bond to such town with two
 3 good and sufficient sureties in a sum not less than one hun-
 4 dred dollars, conditioned that he will not permit any gaming
 5 or drinking of intoxicating liquors in or about his premises;
 6 or any minor to play or roll in his alley without the written
 7 consent of his parent, guardian, or master, or his alley to
 8 be opened or used from sunset on Saturday, and from nine
 9 o'clock on other evenings till ten in the morning.

1855, c. 167, § 3.

SECT. 6. If any person so licensed shall violate any of
 2 the conditions of his bond, the municipal officers on being
 3 furnished with proof thereof shall revoke the license, and
 4 enforce the payment of the bond for the use of their town;
 5 and no person, whose license shall be so revoked, shall
 6 afterwards be licensed in said town for such purpose.

CHAP. 30.

If conditions of
 bond violated,
 license to be
 revoked, &c.

1855, c. 167, § 4.

Billiard rooms.

SECT. 7. The keeper of any billiard room or table, who
 2 shall admit minors to the same without the written consent
 3 of their parent or guardian, or suffer any persons to play at
 4 the same after six o'clock in the afternoon of Saturday, or
 5 ten in the afternoon of other days, shall forfeit ten dollars
 6 for the first and twenty for each subsequent offense.

Penalty for
 admitting
 minors to play
 billiards, &c.

1855, c. 141, § 1.

SECT. 8. Any marshall, sheriff, police, or other officer, may
 2 at any time enter into said billiard room or rooms connected
 3 therewith for the purpose of enforcing this or any other
 4 law; and any person, who shall obstruct the entrance of
 5 such officer, shall forfeit not less than five or more than
 6 twenty dollars: the penalties, provided in this and the pre-
 7 ceding section, may be recovered by complaint, indictment,
 8 or action of debt, to the use of the person prosecuting
 9 therefor.

Penalty for
 obstructing
 officers from
 entering billiard
 rooms to enforce
 the laws, &c.

1855, c. 141, § 2.

Chapter 30.**MISCHIEVOUS DOGS, WOLVES AND BEARS, MOOSE AND DEER.****MISCHIEVOUS DOGS.**

- Sect.* 1. Owners of dogs liable for double damages done by them.
 2. Dogs may be killed that assault any person, or kill domestic animals.
 3. Penalty for not confining or killing dangerous dogs, after complaint and notice, and how appropriated. Dog again at large may be killed.
 4. Owner of dog, assaulting a person, or killing animals after notice, liable to treble damages,

WOLVES AND BEARS.

5. Bounty on wolves and bears to be paid from the town treasury.
 6. Bounty not to be paid till skins exhibited and sworn certificate delivered to treasurer. Treasurer to burn nose and ears, pay bounty, take a receipt, and make a sworn certificate to treasurer of state of the facts.
 7. Certificates and receipts to be sent to treasurer of state, laid before legislature, allowed and paid to towns.
 8. Forms of certificates, receipts and oaths.

MOOSE AND DEER.

9. Penalty for inhabitants of the state killing moose and deer within specified times, and for persons not inhabitants at any time. Dogs hunting moose or deer, within the times, or with persons prohibited, may be killed.

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- Sect.* 10. Appointment of countymoose wardens; tenure of their office; power to appoint deputies, and require bonds. Duty of wardens and deputies to enforce the law, and make annual returns. Penalties for not making returns, and how proved, recovered and appropriated.
11. Wardens may be chosen by towns, have concurrent jurisdiction, and make annual returns. Wardens and deputies to have same authority to require aid as sheriffs.
12. Penalties how recovered and appropriated. Wardens may be witnesses. Other persons may prosecute for penalties, if wardens do not within fourteen days.
13. Indians of Penobscot and Passamaquoddy tribes not subject to these penalties for hunting on their own account.
14. Possession of carcass or hide of such animal, proof of unlawful killing, but may be explained in defense.

Mischievous dogs.

Owners of dogs liable for double damages done by them.

R. S., c. 40, § 1.
1855, c. 149, § 4.

Dogs may be killed that assault any person, or kill domestic animals.

R. S., c. 40, § 2.

Penalty for not confining or killing dangerous dogs, after complaint and notice, &c.

R. S., c. 40,
§ 3, 4.

Owner of dog, assaulting person, &c., liable to treble damages.

R. S., c. 40, § 5.

SECT. 1. Towns may pass by-laws to regulate the going
2 at large of dogs within them. When any dog shall do any
3 damage to a person or his property, the owner or keeper of
4 such dog, and also the parent, guardian, master, or mistress,
5 of any minor or servant, who shall own or keep such dog,
6 shall forfeit and pay to the injured person double the amount
7 of the damage done; to be recovered by action of trespass.

SECT. 2. Any person may lawfully kill any dog, that shall
2 suddenly assault him or any other person when peaceably
3 walking or riding, or be found worrying, wounding, or kill-
4 ing, any domestic animals out of the enclosure or immediate
5 care of the owner.

SECT. 3. Whoever shall be assaulted, or shall find a dog
2 strolling out of the enclosure or immediate care of his
3 master, may within forty-eight hours thereafter make oath
4 before a justice of the peace, that he really suspects such
5 dog to be dangerous or mischievous, and notify such master
6 by giving him a copy of said oath signed by the justice, and
7 if the master shall neglect for twenty-four hours thereafter
8 to confine or kill such dog, he shall forfeit five dollars to
9 any person suing therefor; and if such dog shall be again
10 at large and out of the care of the master, any person may
11 lawfully kill him.

SECT. 4. If any dog after notice given as aforesaid wound
2 any person by a sudden assault as aforesaid, or wound or
3 kill any domestic animals, the owner or keeper shall be
4 liable to pay the person injured treble damages and costs.

Wolves and bears.

Bounty on wolves and bears, &c.

SECT. 5. A bounty of eight dollars for every wolf, and
2 two dollars for every bear, killed in any town in this state

CHAP. 30.

3 shall be paid by the treasurer thereof to the person killing
4 the same on his complying with the following provisions.

1853, c. 35, § 1.
1854, c. 67.

Bounty not to be
paid till skins
exhibited and
sworn certificate
delivered to
treasurer, &c.

SECT. 6. No such bounty shall be paid unless the person
2 claiming the same, within ten days after he has killed such
3 animal, or within ten days after he has returned from the
4 hunting, in which he killed the same, shall exhibit to the
5 town treasurer the entire skin thereof with the ears and
6 nose upon the same in as perfect a state as when killed, ex-
7 cepting natural decay, and shall sign and make oath to a
8 certificate, which oath such treasurer is hereby authorized
9 to administer, in which he shall state that he killed said
10 animal, and the time when and the place where he killed it,
11 shewing it to be within this state; and the said treasurer
12 shall thereupon cut off the whole of the ears and the whole
13 of the nose from such skin, and entirely destroy the same by
14 burning, then he shall pay the bounty and take the receipt
15 of the claimant therefor upon the same paper with the cer-
16 tificate aforesaid. And said treasurer shall immediately
17 make upon the same paper a certificate under oath addressed
18 to the treasurer of state, that he first cut off the ears and
19 nose from the skin of such animal, and destroyed the same
20 by burning, and then paid the said bounty to the claimant.

1853, c. 35, § 2.

SECT. 7. Said certificates and receipts shall annually in
2 the month of December be transmitted to the treasurer of
3 state, and by him laid before the legislature, as early as
4 convenient; and when allowed by the legislature shall be
5 paid by the treasurer of state to such towns.

Certificates and
receipts to be
sent to treasurer
of state, laid
before legisla-
ture, allowed
and paid to
towns.
1853, c. 35, § 2.

SECT. 8. The certificates and receipts shall be in the fol-
2 lowing form:

Forms of certifi-
cates, receipts
and oaths.

[Claimant's certificate.]

To the treasurer of ——. I hereby certify that on the
2 — day of —, A. D. 18—, at —, in the State of
3 Maine, I killed the —, the skin of which I now exhibit
4 to you; and I claim the bounty allowed by law for killing
5 the same.

6 Dated at —, this — day of —, A. D. 18—.

Claimant.

8 Subscribed and sworn to before me, the day and year
9 aforesaid.

Treasurer of —.

[Claimant's receipt.]

12 On this — day of —, A. D. 18—, I received of —,
13 treasurer of —, — dollars, being the bounty allowed

CHAP. 30.

14 by law for killing the — as described in the above cer-
15 tificate.

Claimant.

[Treasurer's certificate.]

18 I hereby certify that, as required by law, I first cut off the
19 whole of the ears and nose from the skin of — described
20 in the foregoing certificate, and destroyed the same by
21 burning, and then paid to the said — the bounty for
22 which I have taken his receipt as above.

23 Dated at —, this — day of —, A. D. 18—.

Treasurer of —.

25 Subscribed and sworn to before me, the day and year
26 aforesaid.

Justice of the peace.

Moose and Deer.

Penalty for
inhabitants of
the state killing
moose and deer
within specified
times, &c.

SECT. 9. No person shall hunt or kill on any land not his
2 own in this state any moose from the fifteenth day of March
3 to the first day of October, or any deer from the fifteenth
4 day of January to the first day of September under a penalty
5 of forty dollars for each moose, and twenty dollars for each
6 deer so killed. No person not an inhabitant of this state
7 shall at any time hunt or kill any moose or deer excepting
8 on his own land under the same penalties as above pro-
9 vided. It shall be lawful for any person to shoot or other-
10 wise kill any dog found hunting moose or deer within the
11 time or with the persons herein prohibited.

1853, c. 27, § 1.
1855, c. 137, § 1.

Appointment of
county moose
wardens; tenure
of their office;
power to appoint
deputies, and
require bonds.
Duty of wardens
and deputies to
enforce the law,
and make annual
returns. Penal-
ties for not
making returns,
&c.

SECT. 10. The governor with advice of council shall
2 appoint one county moose warden for each of the counties
3 of Oxford, Franklin, Somerset, Penobscot, Piscataquis, Han-
4 cock, Washington and Aroostook, to hold his office for the
5 term of four years, unless sooner removed; each of whom
6 may appoint in writing one or more deputies under him,
7 and require of them suitable bonds for the faithful perform-
8 ance of their duties, and the payment to him of his fees;
9 and it shall be the duty of said wardens and their deputies
10 in their several counties faithfully to enforce the provisions
11 hereof. Each of the deputies shall annually on or before
12 the first day of December, render to his principal an account
13 under oath of all the penalties by him enforced for the pre-
14 ceding year, and shall pay to his principal one-tenth part of
15 the net proceeds thereof. Each county moose warden shall
16 annually in January render to the secretary of state to be

17 by him laid before the legislature, an account on oath of all
 18 the penalties enforced by himself, or returned to him by his
 19 deputies for the year ending on the first day of December.
 20 The penalty for neglecting so to do, shall be for a warden
 21 fifty dollars, and a deputy twenty-five dollars; and it shall
 22 be the duty of the warden immediately to give notice to
 23 the county attorney of every such neglect of his deputy;
 24 and it shall be the duty of the secretary of state to notify
 25 such county attorney of every such neglect of the warden;
 26 and the county attorney shall prosecute for every such
 27 neglect of which he has notice; and the penalties so recov-
 28 ered shall be for the use of the county. In such prosecu-
 29 tions the certificate of the secretary of state shall be
 30 sufficient evidence of the fact of such neglect to make return
 31 to him.

1853, c. 27, § 2.

SECT. 11. The municipal officers of any town may insert
 2 in the warrant for their annual meeting an article for the
 3 choice of a town moose warden, who in his town and any-
 4 where within the distance of twelve miles from the exterior
 5 bounds thereof shall have concurrent jurisdiction with, and
 6 the same powers and rights as the county moose warden
 7 and his deputies; and he shall make a like return to the
 8 secretary of state under a penalty of twenty-five dollars, to
 9 be proved, recovered, and appropriated, in the same way.
 10 Each of said officers shall have the same authority to require
 11 aid in the execution of his office as sheriffs and their dep-
 12 uties have.

Wardens may
 be chosen by
 towns, have
 concurrent
 jurisdiction, and
 make annual
 returns, &c.

1853, c. 27, § 3.

SECT. 12. The county wardens, their deputies, or town
 2 wardens may recover in any court proper to try the same
 3 the penalties for unlawfully hunting and killing moose and
 4 deer in an action on the case in their own names, or by
 5 complaint or indictment in the name of the state; and such
 6 officers may be competent witnesses, and the sums recovered
 7 shall be paid one half to the said warden or deputy warden,
 8 and the other to the county or town as the case may be.
 9 Any person may prosecute by complaint or indictment for
 10 any of the acts herein forbidden, provided no such warden
 11 or deputy shall within fourteen days after the offense is
 12 committed prosecute therefor.

Penalties how
 recovered and
 appropriated.
 Wardens may be
 witnesses, &c.

1853, c. 27, § 4.

SECT. 13. No Indian of the Penobscot or Passamaquoddy
 2 tribe shall be liable to the penalties hereof, while hunting
 3 moose and deer on his own account and for his own use
 4 unaccompanied by any person herein forbidden.

Indians of
 Penobscot and
 Passamaquoddy
 tribes not subject
 to penalties, &c.
 1853, c. 27, § 5.

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Possession of
carcass or hide
of such animal,
proof of unlaw-
ful killing, &c.

1853, c. 27, § 6.

Secretary of
state to com-
municate, &c.

1853, c. 27, § 4.

SECT. 14. If any person shall have in his possession the
2 carcass or hide of any such animal within the times herein
3 forbidden, he shall be deemed to have hunted and killed the
4 same contrary to law, and be liable to the penalties afore-
5 said, after he has had reasonable opportunity given him by
6 the warden to show, that said animal was lawfully killed,
7 and has neglected to do so; but he shall not be precluded
8 from producing such proof in defense.

SECT. 15. The secretary of state is to communicate to
2 the legislature in each month of January what has been
3 done in execution of the last six sections of this chapter as
4 appears by the returns received.