

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Maine,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

APPENDIX.

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

Augusta:

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1841.

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ARTICLE I. LOCATION, ALTERATION, OR DISCONTINUANCE OF HIGHWAYS.

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

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

SECT. 3. If, after such view, and hearing of the parties and their testimony, which hearing shall be at the time and place of such view, or at some convenient place in the vicinity, after such view, they shall judge the same to be of common convenience and necessity, the said commissioners shall have power to lay out, alter or discontinue such highway, or any part thereof, and shall estimate the damages, if any, which any person may sustain by reason thereof; and shall make a correct return of their doings, under their hands, with an accurate plan or description of said highway, so laid out, altered or discontinued, to the regular session of said county commissioners' court, to be held next after such proceedings shall have been had and finished; and shall cause the same to be duly recorded.

SECT. 4. In all locations or alterations of highways, made by the county commissioners, they shall cause durable monuments to be erected at the angles thereof.

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

SECT. 6. If any such petition be presented, as aforesaid, for increase of damages, the county commissioners shall still further

Petitions to be presented to the county commissioners. 1821, 118, § 1. 1832, 42, § 1. 7 Mass. 158.

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6 Mass. 246.

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1821, 118, § 1, 2, 6.
3 Fairf. 210.
7 Pick. 13.
10 Pick. 235.
21 Pick. 253.

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1821, 118, § 5, 7.

Petition not to abate, by death of any petitioner.

In joint petitions, survivor may proceed, after notice to the administrator.

Warrant for a jury, to whom directed.
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continue the original petition, from term to term, until a final decision shall be had, on such petition for increase of damages, as hereinafter provided ; after which, the record of the proceedings, on said original petition, shall be completed, and not before.

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

SECT. 8. Any party, aggrieved by the doings of the commissioners in estimating damages, as aforesaid, may have a jury to determine the matter of his complaint, on his petition presented pursuant to the fifth section of this chapter, unless he shall agree with the parties, adversely interested, to have the same determined by a committee, to be appointed under the direction of the commissioners. In case of controversy respecting the interests of any party, claiming damages as aforesaid, the said jury or committee shall have power to consider and determine such question of interest, so far only, as respects the damages of such complainant. Any town, or other corporation, aggrieved by the estimate of the commissioners, shall be entitled to a similar remedy, by a jury or committee, as is provided for individuals, claiming damages.

SECT. 9. If two or more persons shall apply, at the same time, for joint or several damages, they may join in the same petition to the commissioners ; and if several applications shall be pending, at the same time, before the commissioners, for a jury or committee, relative to the same highway, the said commissioners may, at their discretion, cause all such applications, to be considered and determined, by the same jury or committee ; and the costs shall be taxed, either jointly or severally, as the commissioners shall determine to be equitable. The commissioners shall also have like power, in case of adverse petitions relative to the same highway.

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

SECT. 11. If, upon the death of one or more of several petitioners for a jury, the executors, administrators, heirs or devisees of such petitioners, after notice from the commissioners, that such petition is pending, shall neglect to appear, or to prosecute, the surviving petitioners may proceed without them.

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

SECT. 13. The officer, thus authorized, shall make application

to the selectmen of two or more towns, in said county, other, than the town where the property, affected, is situated, who shall draw out of the jury box, of their respective towns, so many jurors, as such officer shall require; not exceeding nine from any one town. The jurors shall be drawn, summoned and returned, as in other cases; excepting that the jurors need not be summoned, more than twenty four hours before the time appointed for their attendance.

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drawn and summoned.
1821, 118, § 1.

SECT. 14. If by accident, or challenge, there shall happen not to be a full jury, the officer who summoned the jury, or in his absence, the officer attending the jury, shall return some suitable person, to supply the deficiency.

Talesmen, in case of deficiency.
1821, 118, § 1.

SECT. 15. In all cases of petitions for increase of damages, as aforesaid, on account of any highway, when the damages are liable to be assessed on the county, the attorney for the state, in the county where such highway is situated, shall be duly notified of such application, and shall be authorized to act in behalf of the county, as well in agreeing on a committee, as before provided, as in relation to a jury. It shall be required of the officer, in his warrant for summoning a jury, or of the committee acting by agreement, to give reasonable notice to said attorney, and it shall be the duty of such attorney, to attend said jury, or committee, in behalf of his county. The warrant shall also specify the other parties interested, whom said officer shall be required to notify, as aforesaid.

County attorney and other parties, to be notified.
1824, 249, § 2.

SECT. 16. The commissioners, if they see cause, may appoint some person, specially qualified for the purpose, to preside at the view and hearing before the jury; who shall be under oath, and shall be allowed a reasonable compensation from the county, to be fixed and allowed by the commissioners. The jury shall also be attended by some officer, qualified as aforesaid, to summon jurors for the purpose, and who shall preside at the view and hearing, if no other person is specially appointed; who shall be sworn for the occasion.

Who shall preside at the view and hearing,
11 Pick. 269.

SECT. 17. The person, who shall preside at the trial, shall keep order therein, and shall administer an oath to the jurors, for the faithful discharge of their duty, and to all the witnesses examined, in the usual form.

Jurors and witnesses to be sworn.

SECT. 18. The jury shall view the premises, and also hear and examine all such legal evidence, as may be laid before them, with the observations of the parties, or their counsel, thereon. All the jurors shall sign the verdict, which may be agreed upon, and the same shall be enclosed in a sealed wrapper, with an endorsement, expressing what it contains; and shall be delivered so endorsed to the officer, having charge of the jury. The verdict shall be returned at the session of the commissioners, next following the order for summoning the jury. The officer shall make return of his doings with the verdict, and specify his own travel and attendance, and that of each juror. If the jury do not agree on a verdict, the commissioners may issue a new warrant, at their next session, on motion of the original petitioner.

Proceedings of jury, verdict, and officer's return.
1821, 118, § 1.

SECT. 19. The verdict of the jury, or the report of the committee, duly returned to the said commissioners, and by them accepted and recorded, shall be conclusive on the parties; and the

Effect of verdict, when accepted. Costs.
1821, 118, § 1, 4.

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1835, 168, § 1.
5 Mass. 435.
3 Fairf. 210.

Time for taking
off wood, pay-
ment of dama-
ges, and open-
ing road.
1835, 168, § 1.
3 Mass. 406.
8 Greenl. 137.

Commissioners
may reject a
verdict or re-
port, and dis-
continue the
highway: costs
in that case.
1835, 168, § 1.

Modification of
damages, in
such case.
1832, 42, § 3.

Proceedings on
petitions for
roads, extend-
ing into two or
more counties.
1832, 42, § 1.
9 Pick. 46.

proceedings on the original petition shall be considered completed. The party prevailing, whether the claimant for damages, or the county, town or other corporation interested, shall recover their costs, incurred on the occasion, against the other.

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

SECT. 21. If, on inspection of any report or verdict, duly returned, relating to any highway, intended to be laid out, altered or discontinued, the county commissioners shall be of opinion, that the same ought not to be done, subject to such high damages, as are awarded, it shall be their duty, instead of accepting such report, or verdict, in full, to enter upon the record of proceedings under the original petition, a judgment, that the prayer of the said original petition for such road, to be laid out, altered or discontinued, shall not be granted, for the reason aforesaid; and no damage shall be allowed, but the county or town, liable therefor, shall pay the costs awarded, in the same manner, as if the report, or verdict, had been accepted in regard to damages.

SECT. 22. Whenever any highway shall be discontinued, before the time limited for the payment of damages, awarded to the owners of the land, over which such highway passes, the county commissioners may revoke their order for the payment of damages, and estimate, and order payment of, the damages, actually sustained; provided, that the parties interested shall have a right to have their damages, thus proposed to be varied, to be estimated anew, by a jury or committee, as herein provided in other cases of damages claimed.

SECT. 23. Petitions for laying out, altering or discontinuing any highway, extending into or through two or more counties, may be presented, as aforesaid, at any regular session of the commissioners, for either of said counties. Said commissioners, in their discretion, may request a meeting of the commissioners of the other counties, affected, at such time and place, as they shall appoint, to view the route proposed by such petition, by causing an attested copy of such petition to be served upon the chairman of said commissioners, in each of the counties aforesaid, together with a copy of the order of the court, appointing the time and place of said meeting; and they shall notify all persons and corporations, interested, by causing copies of such petition and order to be published in the newspaper, issued by the printer to the state, and also in one other paper, printed in each county, through or in which the proposed road may be located, altered or discontinued, if any such paper there be, and also to be posted up in three public places, in each town, directly interested, and served upon the clerk of said town.

SECT. 24. All notices required to be served, posted up or otherwise published, in the preceding section, shall be given, at least thirty days, before the time appointed for the meeting aforesaid.

SECT. 25. At such meeting, a majority of the commissioners present may proceed to adjudicate on such petition; provided, that each county be represented by a majority of its own commissioners at the meeting, otherwise they shall only have power to adjourn the meeting.

SECT. 26. If a majority of all the commissioners, a quorum being formed as aforesaid, shall adjudge it to be of public convenience and necessity to lay out, alter or discontinue such highway, or any part thereof, as prayed for, the commissioners shall proceed to lay out, alter or discontinue that part of such highway, which lies in their respective counties, in the same way and manner, as is provided, in this chapter, for other highways under their jurisdiction.

ARTICLE II. OF LOCATION, ALTERATION AND DISCONTINUANCE OF TOWN AND PRIVATE WAYS.

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

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

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

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

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

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Notices, how given.
1832, 42, § 2.

Majority of each board, a quorum.
1832, 42, § 2.

If highway be adjudged necessary, each board shall locate in their own county.
1832, 42, § 2.
1836, 198, § 2.

Selectmen may lay out town or private ways.
1821, 118, § 9.
3 Fairf. 32.

Notice to be given seven days.
1 Mass. 86.
3 Greenl. 438.

Proceedings to be confirmed by the town.
1821, 118, § 9.
6 Mass. 7.
5 Pick. 492.
1 Fairf. 335.
2 Fairf. 109.
13 Maine, 250.
16 Maine, 301.

Towns may discontinue such ways.
1821, 118, § 9.
Damages, how estimated and paid.
1821, 118, § 9.
2 Fairf. 422.

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Commissioners may lay out town ways, if selectmen refuse.

1821, 118, § 10.
1833, 79, § 3.
8 Greenl. 271.
1 Fairf. 24.
3 Fairf. 210, 271.

SECT. 32. If the selectmen of any town, shall unreasonably refuse or neglect to lay out or alter any such town way or private way, when requested, in writing, by one or more of the inhabitants thereof, or proprietors of land therein, if leading from land under his possession and improvement, to any highway or town way, the commissioners, at any meeting within one year, on application of any of the persons, so requesting, by petition in writing, may cause the said town or private way to be laid out or altered; and they shall ascertain the place and course of the way, and estimate the damages, sustained by any person by reason thereof, and the same, with the costs of the proceeding, shall be paid by the parties, who would have been liable for damages, if no appeal had been made from the selectmen's decision; and the commissioners may issue a warrant of distress therefor, saving to the parties the like remedy by a committee or jury, if they are dissatisfied with the determination of the commissioners.

May discontinue town ways, if towns refuse.

1821, 118, § 10.

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

May approve ways laid out by selectmen, if towns refuse.

1821, 118, § 11.
2 Mass. 118.
1 Fairf. 24.
3 Fairf. 210, 271.

SECT. 34. If any town shall unreasonably refuse, or delay, to approve and allow any town way or private way, laid out or altered by the selectmen thereof, and to put the same on record, any person aggrieved by such refusal or delay, if such way lead from land, under his possession and improvement, to any highway or town way, may, within one year thereafter, apply by petition in writing, to the commissioners. The commissioners may, unless sufficient cause shall be shown against such application, approve and allow of the way, as laid out or altered by the selectmen, and direct the said laying out, or alteration, and acceptance, to be recorded by the clerk of such town; which shall have the like effect, as if accepted by the town and recorded.

Towns may not counteract the decision of the commissioners.

SECT. 35. When any town way shall have been laid out or altered by the commissioners, it shall not, within five years thereafter, be discontinued or altered by the town. When any such way shall have been discontinued by the commissioners, the town shall not, within two years thereafter, lay out the same again.

Application to commissioners for appraisal of damages, on town ways.

1828, 399, § 5.

SECT. 36. All applications to the county commissioners, for an inquiry of damages for the laying out, altering or discontinuing any town or private way, shall be made and filed in the office of the clerk of said commissioners, within twelve months next after the allowance and establishing of said way, and not afterwards; provided, it shall appear by the report of the selectmen, who laid out or altered said way, that notice was duly given to the parties, as provided in section, twenty eight, of this chapter; or if such town or private way was laid out, altered or discontinued by the county commissioners, that it shall appear by their records, that they gave notice to said parties of their meeting, in the manner provided, as to highways, in section, two, of this chapter.

SECT. 37. If no such notice thus appears to have been given by said selectmen or county commissioners, such application may be made and filed at any time, within one year after the expiration of said twelve months.

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

SECT. 39. In addition to the remedies, herein before provided, for the recovery of the damages for the laying out, altering or discontinuing of any highway, town way or private way, the persons, entitled to such damages, may recover the same, when duly ascertained, as provided in this chapter, together with all costs taxed in his favor, in an action of debt against the parties liable; provided, that demand for the payment of the same shall have been made on the treasurer of any county or town, liable to pay the same, thirty days, at least, before the suit be brought.

SECT. 40. If any town, liable to open and make or alter any highway, town way or private way, duly accepted and ordered by the county commissioners, shall neglect so to do, within the time limited by the provisions contained in this chapter, the said commissioners, on application therefor, shall appoint an agent, other than either of said commissioners, to cause the said road to be opened and made passable, or altered, as the case may be, by contract or otherwise; and when the same shall be agreed to be made passable, or altered, by contract, the agent, making the contract, shall file a certified copy thereof in the office of the clerk of the commissioners, from which he received his appointment; and said commissioners shall forthwith certify to the assessors of the town or plantation interested, the amount he has contracted to give, and the time, within which said contract is to be completed. The commissioners may examine into the doings of said agent, whenever they shall see cause, and may remove him, and substitute another, at discretion; and no account of such agent shall be allowed, without due notice given to the town interested; and after the completion of the service of the agent, and the final allowance of his accounts, the town shall be liable to pay all sums expended by the agent, with the incidental expenses of his agency and the settling of his accounts, adjudged by said commissioners to be reasonable, and the amounts, due on any contracts, by him made; and if such town shall neglect to pay the same, for thirty days, the commissioners shall issue a warrant of distress therefor against such town.

SECT. 41. Whenever any county road, or town or private way, shall be discontinued, in whole or in part, by the county commissioners, said commissioners, in their return thereof, shall fix a time, at which such discontinuance shall take effect.

SECT. 42. Any highway, or town or private way, laid out by the county commissioners, and not opened within six years from the time allowed by the commissioners, agreeably to the provisions of this chapter, shall be deemed to be discontinued.

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If petitioner had no notice, further time allowed.

1828, 399, § 5.
Applicants may join, or sever, in their petitions.
1828, 399, § 5.

Action to recover damages, after they are ascertained.
1828, 399, § 6.

Appointment of an agent to open roads, if towns refuse.
1821, 118, § 12.
1834, 133, § 6.
1836, 198, § 1.
9 Greenl. 58, 98.

Proceedings.

On discontinuance of highway, commissioners shall appoint the time therefor.
1833, 79, § 2.
Ways discontinued, unless opened in six years.
1831, 500, § 9.
3 Fairf. 235.

CHAP. 25.

Rights and liabilities of plantations and their officers.
1821, 118, § 22.

SECT. 43. The inhabitants of plantations, who are, or may be, empowered and required to assess taxes upon themselves, towards the support of government, or for defraying the charges of any county and their officers, shall be vested with like powers, be under the like obligations, and liable to like penalties, so far as such powers, obligations and penalties relate to the making, repairing or amending the highways, and for compensating any individual, who may suffer damage for default of the same; as towns and their like officers have, or are subject to; and like proceedings shall be had by, or against such plantations, in the premises, or their officers. The assessors of such plantations shall be held to perform all the duties required of the selectmen of towns, relating to highways, and invested with the same powers.

ARTICLE III. LOCATION, BUILDING AND REPAIR OF HIGHWAYS, IN UNINCORPORATED PLACES.

Commissioners to locate, and make and repair highways, in unorganized places, at the expense of the proprietors.
1821, 118, § 23.

SECT. 44. The county commissioners, in their respective counties, on application duly made to them, pursuant to the provisions of the first section of this chapter, for the laying out, altering or discontinuing any highway in or through any tract, township, or plantation, other than towns, or such plantations, as are described in the section last preceding, or on petition for an order thereof, to amend and repair any such highway already laid out, shall have authority so to lay out, alter or discontinue, or amend and repair the same, or cause the same to be done; and the same shall be done at the expense of the proprietors of said tract, township or plantation, or of the county, or partly at the expense of each, as said court shall order. All the proprietors of such tracts of land, townships or plantations last mentioned, shall be held to pay their proportion, according to their interest, of all costs and expenses of making and repairing the ways aforesaid, through any part of the tracts, townships or plantations last mentioned; provided nevertheless, that all lands, reserved for the use of the first settled minister, the ministry, schools, or for the future appropriation of the legislature, in said tracts, townships and plantations last mentioned, shall be exempted from all taxes on account of highways.

Notice to be first given.
1821, 118, § 24.

SECT. 45. On any application or petition, as mentioned in the section last preceding, the county commissioners shall cause notice thereof to be given, by publishing the substance of such application, with the order of the court thereon, three weeks, successively, in the newspaper published by the printer to the state, and such other paper as they shall order, that the proprietors of said lands may appear before said commissioners, at such time as they shall appoint by said order, to shew cause, why such highway should not be laid out, altered, discontinued, or amended and repaired, as the case may be.

Proceedings. Assessment.
1821, 118, § 24.

SECT. 46. After notice, as aforesaid, and a due hearing of the parties, the said commissioners, if they see cause, may proceed to lay out, alter, or discontinue said highway, in the manner prescribed by law, or to order the same to be amended and repaired, at the expense of the proprietors or otherwise, as before provided in section, forty four. The proportion of the expenses, payable by said proprietors, shall be assessed and raised, as hereinafter provided.

SECT. 47. Whenever any highway shall be laid out by the county commissioners, through any unincorporated tract of land, the said commissioners shall decide, whether, in their opinion, such tract, or any part thereof, will be thereby enhanced in value. Said commissioners may, upon a plan of said tract, whether consisting of one or more townships, make as many divisions, as they may think equitable, conforming, as near as convenient, to known divisions, or separate ownerships; and they may assess upon each division, which they shall consider to be enhanced in value, towards the expense of making and opening such road, such sum, as, in their judgment, shall be proportionate to the value, and the benefits likely to result to it, from the establishment of such road.

SECT. 48. Said commissioners shall, thereupon, cause an assessment to be made on such tracts of land, township or plantation, or divisions thereof as aforesaid, if they see cause, at such rates per acre, as they shall judge necessary for making or opening such highway, and defraying the necessary expenses attending the same.

SECT. 49. The county commissioners, in their respective counties, on or before the fifteenth day of May, in each year, shall assess upon all unincorporated townships, or parts of such townships, a sum of money, sufficient to keep in repair the county highways, which are, or may be laid out and opened in such townships, or parts of townships, and also all roads which have been, or may be laid out and made therein by this state, or by this state and the commonwealth of Massachusetts, or roads therein, the repairs and protection of which this state has assumed, or may assume.

SECT. 50. As soon as may be after such assessment shall have been made, said commissioners shall publish a notice of the amount so assessed, specifying how much is assessed on such townships, or parts of townships, respectively, and the road, on which such assessment is to be expended, in some newspaper published in the county, if any, and in that published by the printer to the state; and shall certify, in writing, the same facts to the treasurer of the county, where the money is to be expended.

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

SECT. 52. The proprietors of said tracts, townships or plantations, or divisions thereof, whether holding several rights, or in common, shall be severally assessed their respective proportions in every tax, which may be ordered, for making and opening, or for altering or repairing the highways therein; provided, such proprietors fur-

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Assessment to be apportioned, according to the benefit conferred.
1833, 79, § 1.

Same subject.
1821, 118, § 24.

Annual assessment for repairs.
1836, 242, § 1, 2.
1840, 87, § 1.
3 Greenl. 131.

Publication of notice of assessment.
1836, 242, § 2.
1840, 87, § 2.

Appointment of agent, to make repairs.
1836, 242, § 2.
1840, 87, § 3.

Proprietors may be severally assessed, by furnishing a description of their shares.
1821, 118, § 24.
1838, 345, § 1.

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County treasurer to notify the state treasurer of the assessment.

State treasurer to publish notice of the assessment.

Agent to expend money in repairs.
1821, 118, § 24.

Proprietors of tracts may meet and assess themselves, for these purposes.
1821, 118, § 24.

Ways to be kept in repair.
1821, 118, § 13.
5 Greenl. 254.

Penalty for neglect.

Ways on the line between towns, how repaired.
1835, 155, § 1.

If the towns disagree, county commissioners may make division.
1835, 155, § 2.

nish the commissioners with an accurate description of their several rights or their several interests therein : and any one proprietor, who shall give a description of his interest in such tract, shall be separately assessed.

SECT. 53. The treasurer of the county, where the land so assessed may lie, shall, forthwith, notify the state treasurer of said assessment, as provided in section, three, of chapter, fourteen.

SECT. 54. The state treasurer shall give notice of such assessment, as provided in section, four, of chapter, fourteen.

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

SECT. 56. The proprietors of any such tract, township or plantation, as has been described in section, forty four, are hereby authorized to call meetings, for the purpose of raising such sums of money, as they shall judge necessary, for making and repairing highways within their limits, and for choosing officers, for assessing and collecting the same, in the manner provided for proprietors of common and undivided lands, in chapter, eighty five.

ARTICLE IV. LIABILITY OF TOWNS, AND OTHERS, TO REPAIR WAYS, AND PROCEEDINGS IN RELATION THERETO.

SECT. 57. All highways, town ways, causeways and bridges, laid out or being within the bounds of any town, or any plantation, such as is described in section, forty three, of this chapter, shall be duly opened, and kept in repair, and amended, from time to time, that the same may be safe and convenient, for travelers and their horses, teams, carts and carriages ; and in default thereof, such town or plantation shall, on presentment of the grand jury for the county, in which such town or plantation is, and on conviction thereof, be liable to pay such reasonable fine, as the court, having jurisdiction thereof, may order.

SECT. 58. Whenever any highway shall be, or has been, laid out, on the dividing line between any two towns, or any town way, by the concurrent act of the selectmen of any two adjoining towns on each side of such dividing line, the selectmen of such towns shall have authority, for the purpose of making and maintaining such way, to divide the same, crosswise, for the purpose of assigning to each of said towns, by metes and bounds, their several parts of said way ; provided, such division and assignment shall, within one year after the making thereof, be accepted by each of the towns concerned, at a legal meeting thereof.

Said division and assignment shall hold each of said towns, to repair and support their respective parts of said highway or town ways, in the same manner, and subject to the same liabilities, in all respects, as if their part lay, wholly, in such town.

SECT. 59. If the selectmen of said adjacent towns cannot agree on such division, or if either of said towns shall neglect or refuse, for the term of one year, to accept of such division, the selectmen of either of said towns may apply, in writing, to the county com-

missioners, who shall thereupon have power to make a just and equitable division, as aforesaid, and assign to each of said towns, by metes and bounds, their respective parts thereof; first giving notice thereof to all persons interested, by publishing such written application, and the time and place assigned for making such division, three weeks successively, in a public newspaper printed in said county, or by serving a copy thereof upon the town clerks of said towns, thirty days previous to the time appointed.

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

Such division may be made, when the highway is located. 1835, 155, § 3. 13 Mass. 294.

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

Same subject. 1835, 155, § 2, 3.

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

Surveyors of highways to be chosen. 1821, 118, § 13.

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

Assignment of surveyor's limits.

1821, 118, § 13. 1 Pick. 418. 4 Pick. 149.

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

Right of selectmen, when chosen surveyors.

1821, 118, § 13.

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

Highway taxes, how raised, assessed and apportioned.

1821, 118, § 13. 1832, 21.

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

Two thirds to be expended before first of July.

1821, 118, § 13.

SECT. 67. The surveyor shall give reasonable notice, in writing if desired, to each person on his list, resident in the town, of the sum he is assessed to the highways and town ways, and also forty eight hours' notice, extraordinary casualties excepted, of the times

Surveyor to give notice for furnishing labor or materials. 1821, 118, § 13.

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and places, he shall appoint, for providing materials, and laboring on the same; to the end, that each person may have opportunity to work thereon, in person or by substitute, or with his oxen, horses, cart or plough, at the prices affixed by the town to such labor or materials, to the full amount of the sum at which he is assessed: or he may pay the surveyor, in money, the sum he is assessed; which it shall be the duty of the surveyor to expend, according to his best discretion, in labor or materials, for repairing the ways in his limits.

Ways, blocked with snow, to be opened. Sudden injuries to be repaired. 1821, 118, § 13. 13 Pick. 343.

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

Towns to furnish apparatus, for breaking out snow. 1836, 219, § 2.

SECT. 69. There shall be furnished and kept in repair, in each surveyor's district, through which there is a mail route, in any town, some effectual apparatus for opening roads, obstructed with snow; and it shall be the duty of surveyors of highways, whenever the roads are so obstructed, to make use of the same in the districts aforesaid, and break and keep open said roads, to the width of at least ten feet.

Surveyors to return a list of delinquents, who may be afterwards assessed. 1821, 118, § 13.

SECT. 70. The surveyor, at the expiration of his term, shall render to the assessors a list of such persons, if any, as shall have been deficient, on due notice, in working out or otherwise paying their highway tax; which deficient sums shall be placed by the assessors in a distinct column, in the next assessment of a town tax upon such delinquents, and collected like other town taxes, and paid into the town treasury.

Surveyors to remove obstructions. 1821, 118, § 14.

SECT. 71. Every surveyor is hereby authorized, within his district, to remove any obstacle, natural or artificial, which shall, in any wise, obstruct, or be likely to obstruct, or render dangerous the passage of any highway or town way.

May dig for materials in lands, not inclosed. 1821, 118, § 14.

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

Water courses, not to incommode individuals. 1821, 118, § 14.

SECT. 73. No surveyor of highways shall, without the approbation of the selectmen, first being had in writing, cause any water course, occasioned by the wash of a highway or town way, to be so conveyed by the side of such way, as to incommode any person's house, store, shop or other building, or to obstruct any person in the prosecution of his business; and any person, aggrieved by the conveying of such water course, in manner aforesaid, may complain to the selectmen, who, on receiving such complaint, shall view the water course complained of; and, after due examination of the

same, may direct the surveyor to alter the said water course, in such manner as they shall determine. CHAP. 25.

SECT. 74. When the sum appropriated and assessed, for the repair of highways and town ways, in the limits of any surveyor, be insufficient, such surveyor, with the consent of the selectmen, obtained in writing, may employ inhabitants of the town upon the repair of ways in his limits, to an amount of labor, not exceeding fifteen per centum in addition to the highway tax, committed to him, to make up the deficiency. The persons, thus employed, shall be paid a reasonable compensation from the town treasury, or in such other mode, as the town may have previously prescribed.

Proceedings, if amount raised be insufficient to repair roads. 1821, 118, § 15. 3 Greenl. 445. 13 Pick. 377. 2 Fairf. 367. 13 Maine, 293.

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

Towns may raise cash taxes, to repair ways; how assessed. 1821, 118, § 19. 1823, 399, § 4. 1832, 17, § 1. 1836, 219, § 1.

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

Abatements, on account of wide rimmed wheels. 1829, 427.

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

Repair of ways, by contract. 1821, 118, § 16.

SECT. 78. Every town may also empower the surveyors to collect all such taxes, as shall not be paid in labor or otherwise, within the time limited by law, or at such periods, as may be agreed upon by the town; and for that purpose, the assessors shall deliver, to them, warrants of distress, which shall be in substance like the warrants, prescribed by law, for collecting other town taxes: or they may deliver a warrant, for collecting the deficiency in any highway tax, to the collector, who shall then proceed to collect the same in like manner, as other taxes are by law to be collected; and shall pay over the same to the respective surveyors, who shall be held to account with the selectmen, for the expenditure thereof.

Surveyors may be empowered, to distrain for non payment of road taxes. 1821, 118, § 16. 15 Maine, 247.

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

Surplus, to be paid to town treasurer. 1821, 118, § 16.

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

Penalty, if surveyor neglect to pay over such surplus. 1821, 118, § 16.

SECT. 81. Every surveyor, who shall receive his rate bill, shall exhibit the same to the selectmen, on the first Monday of July, annually, and also at the expiration of the term for which he may have been appointed; and at those times, respectively, shall render an account of all moneys, that may have been expended by him on

Surveyors to account with selectmen. Penalty for neglect. 1821, 118, § 16.

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Towns may elect road commissioners.
1832, 27, § 1.

Their powers, liabilities and compensation.
1832, 27, § 1.

Their mode of proceeding.
1832, 27, § 2.

Manner of notifying non residents.
1832, 27, § 3.

Proceedings in collecting delinquent road taxes.
1832, 27, § 4, 5.

the ways : if he unreasonably neglect so to do, he shall, for each offence, forfeit twenty dollars, to the use of the town ; to be recovered with costs, in an action of debt, to be prosecuted in the name of the town, by the treasurer thereof.

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

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

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

SECT. 85. When any persons, taxed on said rate bills, are non resident proprietors of real estate in said town, or are absent, leaving no attorney or agent, duly entered with the town clerk, or otherwise known to the commissioners, having charge of such rate bill, such commissioners may give them notice of the amount assessed to them, respectively, and the times and places, for them to appear and work out, or otherwise discharge, the same, by posting up advertisements thereof, in two or more public places in said town. If no person shall appear, within twenty days thereafter, to discharge such taxes, agreeably to such notice, such commissioners shall make due return of such notice and neglect to the assessors, as provided in the last section.

SECT. 86. Said delinquent taxes may be collected in the same manner, as other taxes assessed by towns are collected, by any town collector, or one of said commissioners, or such other person as the said commissioners may designate to the assessors, as collector of delinquent highway taxes. Such collector shall be sworn, and shall give such bonds to the town, for the faithful discharge of his duties, as said commissioners shall direct and approve. The assessors shall duly commit such delinquent taxes with their warrant, in due form of law to enforce the collection thereof, to the collector thus designated ; who shall possess the same powers, as other col-

lectors of town taxes; and shall render his account, and make payment, of such sums, as he may collect, to the commissioners, until the next annual town meeting; and afterwards to the town treasurer. Said treasurer shall have the like powers, and be under the like obligations, to compel such account and payment, as he has in regard to the collector of town taxes.

SECT. 87. Any town choosing road commissioners, as aforesaid, may, at their annual meeting, authorize the said commissioners to receive money in payment of any tax; to them committed, in lieu of the labor or materials, specified in the rate bills, at such uniform discount from the nominal prices and rates of such labor and materials, fixed by the town, as it may determine; provided the same be paid before the amount shall have been certified to the assessors, as delinquent.

Commissioners may be authorized to make a discount to those, who pay money.
1832, 27, § 6.

SECT. 88. When any town shall have more than one road commissioner, the selectmen shall designate one of them, to be chairman of the board of commissioners, who shall keep the rate bills to them committed for the use of the board, shall make and keep the records of accounts of the same, and receive all moneys paid on account of said rate bills, and hold the same, subject to be paid out, as the commissioners shall order. The said chairman shall give bond to the town, for the faithful performance of all his duties, in such penal sum, and with such sureties, as the selectmen shall approve. When only one road commissioner shall be appointed and serve, he shall give bonds in like manner, and be solely responsible, for all duties and liabilities pertaining to the office, under any of the provisions of this chapter.

Chairman of road commissioners, and his duties.
1832, 27, § 7.

SECT. 89. If any person shall receive any bodily injury, or shall suffer any damage in his property, through any defect or want of repair, or sufficient railing, in any highway, town way, causeway or bridge, he may recover in a special action on the case, of the county, town, or persons, who are by law, obliged, to repair the same, the amount of damage sustained thereby, if such county, town or persons had reasonable notice of the defect or want of repair. If the life of any person shall be lost, through any such deficiency, the county, town or persons liable to keep such highway, town way, causeway or bridge in repair, provided they have reasonable notice of such deficiency, shall forfeit not exceeding one thousand dollars, to be paid to the executor or administrator of the deceased, for the use of his heirs, to be recovered by indictment.

Damages through defect of roads. Penalty, if life be lost through such defect.
1821, 118, § 17.
1825, 300, § 3.
1 Mass. 153.
4 Mass. 422.
7 Greenl. 63, 442.

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

2 Fairf. 271, 335.
14 Maine, 198.
16 Maine, 187.
3 Pick. 267.
7 Pick. 188.
9 Pick. 146.
13 Pick. 94, 363.
16 Pick. 189, 541.

Surveyor liable for fines, accruing through his neglect.
1821, 118, § 18.

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Only one indictment against a town, at the same term of a court. Costs. 1836, 216, § 1, 2.

Courts to appoint agents to expend fines in repairing roads. 1821, 118, § 20, 21. 1825, 300, § 6.

Penalty for such agent's neglect. 1825, 300, § 6.

Assessment and collection of fines. 1825, 300, § 4.

Clerk may issue a warrant, to enforce collection. 1825, 300, § 4.

If assessment be not made, nor road repaired, warrant of distress to issue. 1825, 300, § 5.

Any person may remove fences, not authorized, across a road. Remedy. 1821, 118, § 25. 3 Fairf. 32.

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

SECT. 92. All fines imposed on any town or plantation, for deficiencies of the ways and bridges in the same, or on any surveyor for the like cause, shall be appropriated to the repairing of such defective ways and bridges. The court, imposing such fine, shall appoint one or more persons to superintend the collection and application of the same to the purposes aforesaid; and the agents, so appointed, shall, within three months after collecting any such fine, make a return of their doings to the clerk's office of said court, to be put on file, and be opened for the inspection of the parties interested, and subject to be audited and corrected by the court, on application of any such party.

SECT. 93. If any such agent shall be guilty of gross neglect, in the premises, or shall, fraudulently, misapply or retain the amount of the fine, so paid him, he shall forfeit double the amount of such fine, to be recovered by indictment, to the use of the town or plantation, in whose limits said fine was to be expended.

SECT. 94. Whenever a fine shall be imposed on any town or plantation, for deficiency of its ways or bridges, the clerk of the court, imposing the fine, shall forthwith certify the same to the assessors of such town or plantation. The assessors, thereupon, shall assess the same upon the polls and estates of such town or plantation, like other town taxes; and certify the same to the clerk of said court; and shall cause the same to be collected by their collector, and paid over to the agent aforesaid, at such time, as said court may order.

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

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

SECT. 97. It shall be lawful for any person to take down or remove any gates, rails, bars or fence, upon or across any highway, or town way, unless the same shall there be placed for the purpose of preventing the spreading of any infectious disease, or unless the same shall have been erected or continued, by the license of the county commissioners for the same county, or of the selectmen of

the town; and any person aggrieved by such taking down or removal, may apply to the said commissioners, or said selectmen, respectively, who, if it shall appear that such gates, rails, bars or fence, were erected by license, as aforesaid; may order the same to be replaced by the person, who removed them.

SECT. 98. Whenever any logs, lumber or other obstructions shall be, unnecessarily, left on any highway or town way, it shall be the duty of the surveyor, within whose limits the same may be so left, or, in his absence, of any other surveyor, within the town, forthwith to remove the same. Such surveyor shall not be liable for any loss or damage, happening thereto, unless occasioned by his gross negligence, or by design. The surveyor, so removing the same, if no person appear to indemnify him, for the expense and trouble of removing, may sell at public vendue, so much of said logs, lumber or other obstructions, so removed, as shall be sufficient for that purpose, with charges of sale; first giving notice of the time, place and cause of such sale, by posting up notifications in two public places in said town, seven days at least prior to such sale. The person, through whose neglect or wilful default, said logs, lumber or other obstructions shall be so left, shall also be liable to be prosecuted, as at common law, for such nuisance.

Surveyor to remove obstructions. Remedy for the expenses. 1821, 118, § 25. 1831, 495. 7 Mass. 378.

SECT. 99. Whenever any building, fence, or other incumbrance, erected, or continued, on any highway, or town or private way, common, training field, burying place, landing place, or other land appropriated for public uses, or for the convenience of the inhabitants of any county, town, parish or other local district, shall be adjudged and determined, a nuisance, and ordered to be abated, and the materials of such building, fence or other incumbrance, upon a sale thereof by auction, shall be insufficient to pay the costs and charges of prosecution and removal, the court, from which the process for removal shall issue, may order the deficient sum to be raised and levied, from the goods and chattels of the party, who shall be convicted of erecting, or continuing, such nuisance.

When buildings or fences are adjudged nuisances on roads, mode of obtaining pay for removal. 1821, 118, § 26.

SECT. 100. Where buildings or fences have been erected, or continued, for more than twenty years, fronting upon or against any training field, burying place, common, landing place, highway, private way, street, lane, or alley, and, from length of time, or otherwise, the boundaries thereof are not known, or cannot be made certain by the records, or by any monuments, such fences or buildings shall be deemed or taken to be the true boundaries thereof; but, when such boundaries can be made certain, no length of time, less than forty years, shall justify the continuance of a fence or building; on any town or private way, or on any highway, training field, burying place, landing place, or other land appropriated for the general use or convenience of the inhabitants of the state, or of any county, town, or other local district; but the same may, upon the presentment of a grand jury, be removed as a nuisance.

When buildings or fences are to be deemed boundaries of roads. 1821, 118, § 27. 1836, 238. 17 Pick. 309.

SECT. 101. If, on the trial of any indictment, or action brought to recover damages for an injury received, by reason of any deficiency or want of repair, in any highway, town way, causeway or bridge, it shall appear, that the county, town or plantation, against which such suit is brought, has, at any time within six years before

Towns estopped to deny location of roads, in certain cases. 2 Greenl. 55. 4 Greenl. 270. 5 Greenl. 363. 3 Pick. 408.

CHAP. 25.

Guide posts.
1821, 120, § 1.

Selectmen to
direct where
they shall be lo-
cated. Penalty
for their neg-
lect.
1821, 120, § 2, 4.

Form and in-
scriptions; sub-
stitutes.
1821, 120, § 3.

Fines for neg-
lect of towns.
1821, 120, § 4.

Plantation sub-
ject to like ob-
ligations.
1821, 120, § 1, 2,
3, 4.

Proprietors of
private ways
may call meet-
ings.
1821, 119, § 1.

Proceedings
and powers,
when assem-
bled.
1821, 119, § 1.

such injury; made repairs on such way or bridge, it shall not be competent for such county, town or plantation; to deny the location thereof.

SECT. 102. Every town shall erect and maintain guide posts on the highways and other ways, within the town, at such places, as shall be necessary or convenient, for the direction of travelers, in the manner hereinafter provided.

SECT. 103. The selectmen of each town shall determine upon such places, for the erection and maintenance of guide posts therein, as, in their judgment, shall be found necessary and convenient; and shall cause a fair record of their determination to be entered and kept, on the books of the town clerk. For any unreasonable neglect of their duty, the selectmen, for the time being, shall forfeit and pay to the use of the state, at the rate of five dollars a month, during such neglect, to be recovered by indictment.

SECT. 104. At each place, thus determined upon and recorded, the town shall cause to be erected, a substantial post, of not less than eight feet in height, near the upper end of which shall be placed a board or boards, upon which shall be legibly and plainly painted, in black letters upon a white ground, the name of the next town on the route, and such other town or place of note, as the selectmen shall think proper, together with the distance or number of miles to the same; also the figure of a hand, with the fore finger thereof pointing to such town or place. Provided nevertheless, that the inhabitants of any town, at any annual meeting, may agree upon some suitable substitute for such guide posts.

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

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

ARTICLE V. OF MAKING AND REPAIRING PRIVATE WAYS.

SECT. 107. Whenever any four or more persons shall be proprietors and rightful occupants of any private way or bridge, and any three of them shall make application in writing to a justice of the peace, to call a proprietors' meeting, the said justice may issue his warrant therefor, setting forth the time, place and purpose of the meeting; and said warrant shall be posted up in some public place in the town, in which such way or bridge is situate, seven days at least before the time, appointed for said meeting.

SECT. 108. The proprietors and occupants, so assembled, shall choose a clerk and surveyor, both of whom shall be sworn. They may also determine the manner of calling future meetings, what repairs on said way or bridge are necessary, and each proprietor's

and occupant's proportion of labor and materials, to be furnished for such repairs. The surveyor shall have the like powers, with respect to such way or bridge, as are lawfully exercised by the surveyors of highways.

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

Penalties on delinquent proprietors.
1821, 119, § 1.

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

Penalty, if surveyor refuse to accept.
1821, 119, § 2.

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

Proprietors may make repairs by contract, and raise money.
1821, 119, § 3.

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

Surveyor may distrain for such taxes.
1821, 119, § 3.

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

Penalty for his neglect.
1821, 119, § 3.

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

Recovery and appropriation of forfeitures.
1821, 119, § 2.

ARTICLE VI. OF THE LIABILITY OF OCCUPANTS OF STATE LANDS, FOR REPAIR OF ROADS.

SECT. 115. When any land, the title of which is in the state of Maine, is in the occupancy or possession of any person under the state, he shall be liable to be assessed therefor, in the same manner, as if the title were in the occupant or possessor; but the

Occupant of state lands to be taxed, in proportion to his interest.
1839, 391, § 1, 2.

CHAP. 25.

Manner of enforcing payment.

assessors of any town or plantation, where any such lands may lie, shall, in estimating the value thereof, deduct the amount due the state, so that the possessor or occupant shall be taxed only for his interest therein, according to its just value.

SECT. 116. The right and interest of any person to any lands, the fee of which is in the state, shall be held liable for all taxes, assessed thereon; and the said interest shall be forfeited, if the taxes, assessed thereon, be not paid, in the same manner as real estate is forfeited. And in all assessments on such lands, or on the interest of any person in such lands, whether by the county commissioners, for making or repairing highways, or by the assessors of any town or plantation for any legal purpose, the same proceedings shall be had, in the assessment and collection thereof, as if the state had no claim to said lands; and any person interested shall have the right to redeem the same, in such manner, as is provided for redeeming real estate taxed.

CHAPTER 26.**OF THE LAW OF THE ROAD.**

- SECT. 1. Travelers with vehicles, meeting on the road, to pass to the right.
2. Modification of this rule.
 3. Duty, when one traveler wishes to pass another.
 4. Teams and carriages, not to travel without a driver, nor obstruct a road.
 5. Bells to horses, with sleighs or sleds.
 6. Penalties.

- SECT. 7. Stage drivers, not to leave horses unfastened.
8. Proprietors of bridges may restrict travelers passing thereon.
 9. Selectmen of towns may do the same.
 10. Penalty for violation.
 11. Wagons, on certain roads, to have wide rimmed wheels.
 12. Penalty for violation.
 13. Cart or wagon may be libeled.

Travelers with vehicles, meeting on the road, to pass to the right.
1824, 245, § 1.

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

Modification of this rule.
1824, 245, § 1.

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

Duty, when one traveler wishes to pass another.
1824, 245, § 2.

SECT. 3. Whenever any person, traveling with any carriage or vehicle, as aforesaid, on any bridge or road, shall overtake any other person, with any such carriage or vehicle, either stationary at