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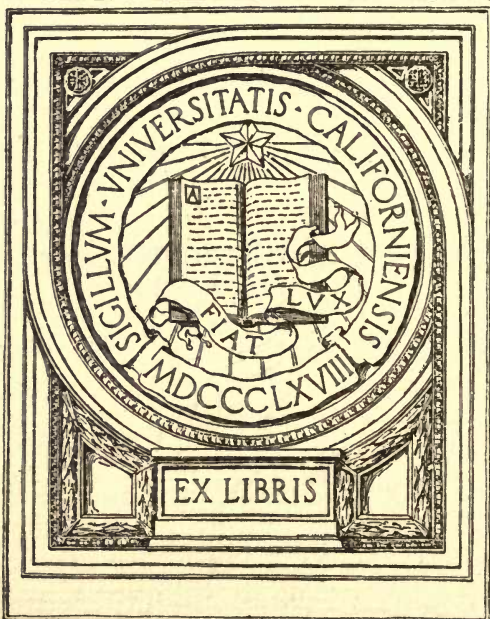
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GENERAL LAWS OF MASSACHUSETTS

RELATING TO THE

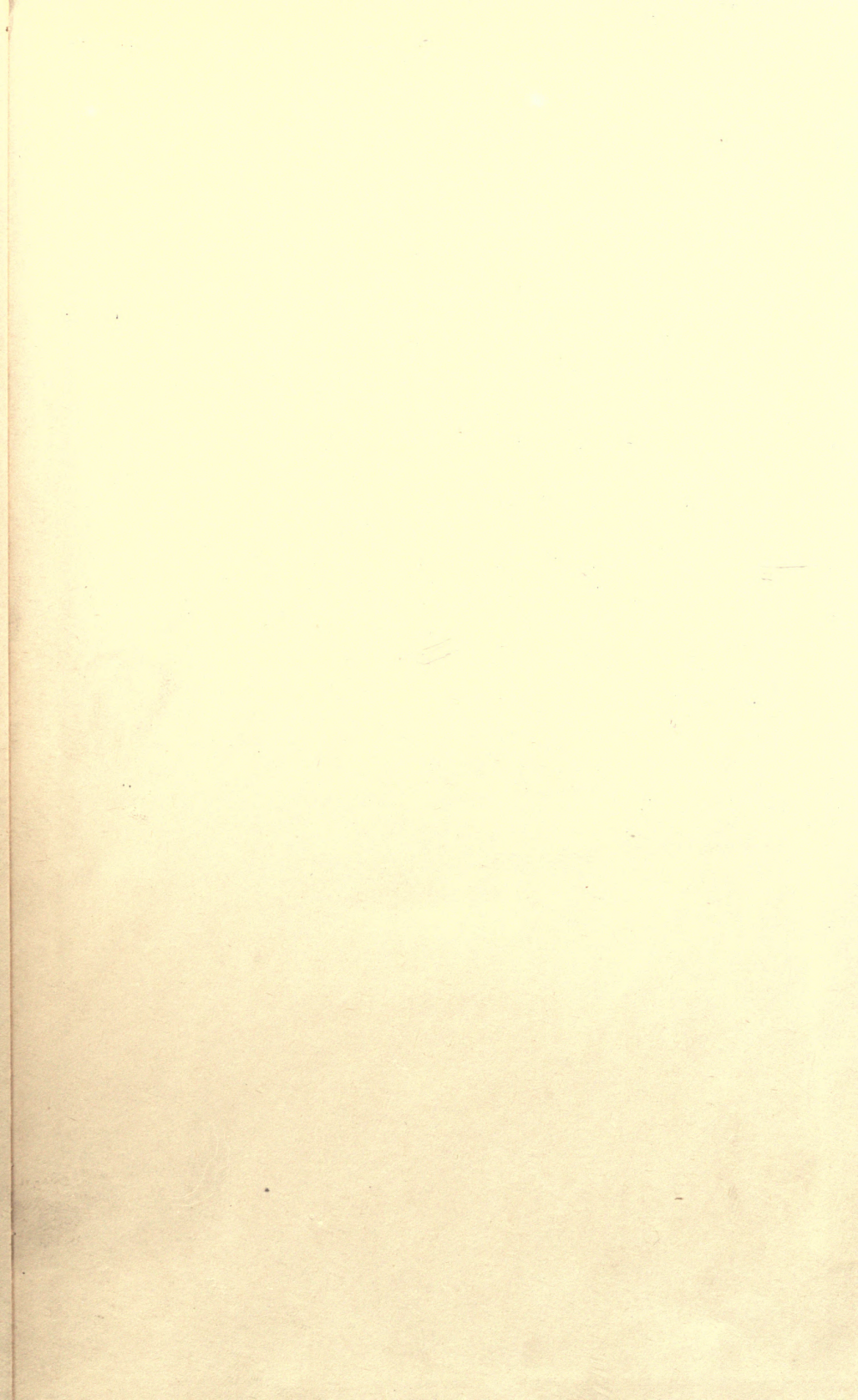
MANUFACTURE AND SALE OF
GAS AND ELECTRICITY

EXCHANGE



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Massachusetts. Laws, statutes, etc.

GENERAL LAWS OF MASSACHUSETTS

RELATING TO THE

MANUFACTURE AND SALE OF GAS AND ELECTRICITY

BY

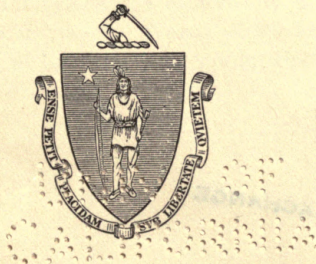
PERSONS AND CORPORATIONS, BOTH PRIVATE AND
MUNICIPAL.

COMPRISING THE PROVISIONS OF THE REVISED LAWS WITH SUBSEQUENT
LEGISLATION TO AND INCLUDING THE ACTS OF THE YEAR 1910.

ALSO

*THE SPECIAL LAWS RELATING TO THE BOSTON CONSOLIDATED GAS
COMPANY, THE ACT OF 1910 TO PROVIDE FOR THE ABATEMENT
OF SMOKE IN BOSTON AND VICINITY AND A TABLE
OF ALL SPECIAL LAWS RELATING TO THE
MANUFACTURE AND SALE OF GAS
AND ELECTRICITY.*

COMPILED BY THE BOARD OF GAS AND ELECTRIC LIGHT COMMISSIONERS.



BOSTON:

WRIGHT & POTTER PRINTING CO., STATE PRINTERS,

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1910.

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THE STATE BOARD OF PUBLICATION.

EXCHANGE

NOTE.

This edition of the general laws relating to persons and corporations, private and municipal, engaged in the business of manufacturing and selling gas and electricity, has been prepared for the convenience of parties interested, and with especial reference to the jurisdiction and duties of the Board of Gas and Electric Light Commissioners. In the absence of a codification of the laws in question, the text is made up primarily of chapters 121, 34, 58, 110 and 122 of the Revised Laws, but with these chapters and under their respective general titles are printed such other provisions of the Revised Laws and subsequent acts as are necessary to the proper interpretation and understanding of the provisions of the chapters named.

The Boston Consolidated Gas Company serves so large a territory and so large a proportion of the total population of the Commonwealth that it has been deemed best to add to this compilation the recent special acts which apply to this company.

The act of 1910 relative to the abatement of smoke in Boston, Brookline, Cambridge, Chelsea, Everett and Somerville imposes the duty of administering this law upon the Board, and is therefore given in full.

As a matter of convenience and interest a table of all special laws relating to the manufacture and sale of gas and electricity has been added, including special laws enacted by the General Court in 1910.

Sections which have been repealed are enclosed in brackets; new or substituted sections are printed in italics. Words which have been stricken out by amendment are enclosed in brackets, and words which have been inserted by amendment are printed in italics.

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LAWS

RELATING TO

GAS AND ELECTRICITY.

REVISED LAWS.

CHAPTER 121.

OF GAS AND ELECTRIC LIGHT COMPANIES.

SECTIONS 1-9. — Board of Gas and Electric Light Commissioners.

SECTIONS 10-41. — Gas and Electric Light Companies.

BOARD OF GAS AND ELECTRIC LIGHT COMMISSIONERS.

SECTION 1. There shall be a board of gas and electric light commissioners consisting of three persons, citizens of this commonwealth, one of whom shall annually before the first day of July be appointed by the governor, with the advice and consent of the council, for a term of three years from said day. The commissioners shall be sworn to the faithful performance of their official duties. They shall not be in the employ of or own any stock in any gas or electric light company or be in any way, directly or indirectly, pecuniarily interested in the manufacture or sale of gas or electric light or of any article or commodity used by gas or electric light companies or used for any purpose connected with the manufacture or sale of gas or electric light. [and shall not engage in any other business.] The governor shall designate the chairman of the board and may, with the advice and consent of the council, remove any member for cause after notice and hearing. The chairman of the board shall receive from the commonwealth an annual salary of four thousand dollars and each of the other two members an annual salary of three thousand five hundred dollars. The board shall be provided with an office in the state house or in some other suitable place in the city of Boston in which their records shall be kept.

Board of gas and electric light commissioners. 1885, 314, §§ 1-4. 1887, 385. 1889, 373. 1894, 503. 1898, 499. 197 Mass. 558. Amended. 1907, 316. See also 1908, 655. 1910, 539.

Acts of 1908, Chapter 655.

An Act relative to Accommodations for the Board of Gas and Electric Light Commissioners, and to authorize the Rearrangement of Rooms in the State House.

SECTION 1. On or before the first day of September, or such other date as the governor and council may determine, in the present year, the board of gas and electric light commissioners shall vacate the rooms in the state house now occupied by the board,

Board of gas and electric light commissioners to be provided with new offices, etc.

shall provide itself with suitable offices elsewhere for the transaction of its business, and may remove thereto such portion of the furniture now in use by the board as may be suitable for its use in the new location. The rental of such offices, the expense of fitting and furnishing the same for the use of the board, and the cost of removal from the rooms now occupied by the board shall be borne by the several gas and electric light companies in proportion to their gross earnings and, together with the other annual expenses of the commissioners, shall be assessed and recovered in the manner provided by section three, Part I, of chapter four hundred and sixty-three of the acts of the year nineteen hundred and six, for the assessment and recovery of the expenses of the railroad commissioners.

Rooms vacated to be remodeled, etc.

SECTION 2. The governor and council may remodel and rearrange the rooms vacated by the board of gas and electric light commissioners, and may cause them to be used for such purposes and by such departments or officials as the governor and council may designate.

SECTION 3. This act shall take effect upon its passage. [*Approved June 13, 1908.*]

Acts of 1910, Chapter 539.

An Act relative to the Salaries of the Board of Gas and Electric Light Commissioners.

Salaries of gas and electric light commissioners established.

SECTION 1. The annual salary of the chairman of the board of gas and electric light commissioners shall be five thousand dollars and that of the other commissioners forty-five hundred dollars each, from and after the first day of July in the year nineteen hundred and ten.

SECTION 2. This act shall take effect upon its passage. [*Approved May 18, 1910.*]

Clerk of commission.
1885, 314,
§ 1.
1894, 503.
1898, 499.

SECTION 2. The board shall have a clerk, who shall be appointed by the governor, with the advice and consent of the council, who shall not engage in any other business, shall keep a full and faithful record of the proceedings of the board, shall serve such notices and perform such other duties as the commissioners may require and shall be sworn before entering upon the performance of his duties.

Incidental expenses and clerical assistance.

1885, 314, § 5.
1891, 351.
1895, 463, § 1.
1899, 365.
1901, 499, § 1.

[SECTION 3. The board may expend not more than three thousand dollars annually for necessary statistics, books and stationery and for necessary incidental expenses; and not more than forty-one hundred dollars annually for clerical assistance.]

Repeated. 1907, 54, § 3.

Acts of 1907, Chapter 54.

An Act relative to the Expenses of the Board of Gas and Electric Light Commissioners.

SECTION 1. The board of gas and electric light commissioners may expend annually for necessary statistics, books, stationery and contingent expenses, and for clerical assistance, such sum as the general court shall annually appropriate.

Gas and electric light commissioners, annual expenses, etc.

SECTION 2. The salary of the inspector of gas meters shall be twenty-five hundred dollars a year; of the first assistant inspector, fifteen hundred dollars a year; of the second assistant inspector, twelve hundred dollars a year; and the board of gas and electric light commissioners may expend annually for the compensation of deputies, and for office rent, travelling and other necessary expenses incident to the duties of said inspectors, such sum as the general court shall annually appropriate.

Salaries, etc.

SECTION 3. Section three of chapter one hundred and twenty-one of the Revised Laws and section six of chapter two hundred and twenty-eight of the acts of the year nineteen hundred and two are hereby repealed.

Repeal.

SECTION 4. This act shall take effect upon its passage. [Approved January 31, 1907.]

Acts of 1908, Chapter 536.

An Act relative to the Expenses of the Board of Gas and Electric Light Commissioners.

SECTION 1. The board of gas and electric light commissioners may expend annually for necessary statistics, books, stationery and contingent expenses, and for clerical assistance, such sums as the general court shall annually appropriate.

Expenses of board of gas and electric light commissioners.

SECTION 2. The salary of the present inspector of gas meters and of illuminating gas shall be twenty-eight hundred dollars a year; of the present first assistant inspector, eighteen hundred dollars a year; of the present second assistant inspector, sixteen hundred dollars a year; and the board of gas and electric light commissioners may expend annually for the compensation of deputies, and for office rent, travelling and other necessary expenses incident to the duties of said inspectors, such sum as the general court shall annually appropriate.

Salaries of employees.

SECTION 3. So much of chapter fifty-four of the acts of the year nineteen hundred and seven as is inconsistent herewith is hereby repealed.

Repeal.

SECTION 4. This act shall take effect upon its passage.

(The foregoing was laid before the Lieutenant Governor, Acting Governor, on the fourteenth day of May, 1908, and after five days

it had "the force of a law", as prescribed by the Constitution, as it was not returned by him with his objections thereto within that time.)

Assessment
of expenses.
1885, 314,
§ 6.
1887, 382,
§ 4.
1891, 351.
1895, 463,
§ 1.
1899, 365.
Repealed.
1904, 435.

[SECTION 4. The annual expenses of the commissioners and clerk, including salaries, shall be borne by the several gas and electric light companies in proportion to their gross earnings, and shall be assessed and recovered in the manner provided by section ten of chapter one hundred and eleven for the assessment and recovery of the expenses of the railroad commissioners.]

Acts of 1904, Chapter 435.

An Act relative to the Assessment of the Salaries and Expenses of the Board of Gas and Electric Light Commissioners.

SECTION 1. (Superseded by Acts of 1909, chapter 490, Part III., § 9.)

Acts of 1909, Chapter 490, Part III., § 9.

*Of railroad,
gas and
electric light
commis-
sioners.*

1864, 152, § 7.
1869, 408, § 9.
1874, 372,
§ 18.
1878, 167, § 1.
P. S. 112,
§ 12.
1885, 314, § 6.
1887, 384, § 4;
382, § 4.
1890, 200, § 3.
1891, 351.
1894, 535, § 8.
1895, 313;
463, § 1.
1897, 376, § 4.
1899, 365.
R. L. 111,
§ 10; 121, § 4.
1904, 429;
435, § 1.
1906, 463,
Pt. I., § 8.

Section 9. All sums of money annually appropriated by the general court for the salaries and expenses of the board of railroad commissioners and of the board of gas and electric light commissioners, their clerks and employees, shall be apportioned by the tax commissioner among the several railroad corporations and street railway companies and among the several gas and electric light companies, respectively; and on or before the first day of July in each year he shall assess upon each of said corporations and companies its share of said sums, in the case of railroad corporations and street railway companies in proportion to its gross earnings from the transportation of persons and property for the year last preceding the year in which the assessment is made, and in the case of gas and electric light companies in proportion to its gross earnings for the year last preceding the year in which the assessment is made; and such assessments shall be collected in the same manner as taxes upon corporations.

Balance re-
maining
December 31,
etc., to be
carried to
next year.

SECTION 2. Of the amount so assessed and collected any balance remaining on the thirty-first day of December in any year, and all forfeitures collected under section thirty-two of chapter one hundred and twenty-one of the Revised Laws and all fees collected under section thirty-six of said chapter and under section five of chapter two hundred and twenty-eight of the acts of the year nineteen hundred and two, during the year, shall be carried forward to the next year and shall be taken into account in making an appropriation for that year.

SECTION 3. Section four of chapter one hundred and twenty-one of the Revised Laws is hereby repealed; but on or before the first day of July, nineteen hundred and four, the tax commissioner shall apportion and assess such expenses therein mentioned as were incurred by the board of gas and electric light commissioners prior to the first day of January, nineteen hundred and four, in the manner therein provided.

Repeal, etc.

SECTION 4. This act shall take effect upon its passage. [*Approved June 8, 1904.*]

Acts of 1910, Chapter 220.

An Act to provide for Supervision by the Governor and Council of Expenditures and Other Financial Operations of the Commonwealth.

SECTION 1. Every officer or board having charge of any department, institution or undertaking which receives an annual appropriation of money from the treasury of the commonwealth, including annual appropriations to be met by assessments, shall, annually, on or before the fifteenth day of November, submit to the auditor of the commonwealth statements in detail showing the amount appropriated for the current fiscal year and the amounts required for the ensuing fiscal year, with an explanation of the reason for any increased appropriation, and with citations of the statutes relating thereto, and with a statement of the expenditures for the current year and for each of the next preceding two years. The said estimates shall not include any estimates for special purposes or objects. The auditor of the commonwealth shall embody the said statements, with a like statement relating to his own department, in one document, which shall be printed, and shall be submitted on or before the first Thursday in January of each year to the governor and council for examination, and the governor shall transmit the same to the general court with such recommendations, if any, as he may deem proper. The auditor shall also submit his estimates for the ensuing fiscal year for the ordinary and other revenue of the commonwealth which shall be made a part of the document herein provided for. Copies of the document shall be distributed to the members of the general court.

Certain statements to be submitted to the auditor, etc.

SECTION 2. Officers, heads of departments, boards, commissions and trustees of institutions, who, in their annual reports, or otherwise, recommend appropriations from the state treasury for special purposes or objects, including appropriations to be met by assessments, in addition to the ordinary running expenses, shall submit estimates thereof in detail to the auditor of the commonwealth on or before the fifteenth day of November in each year,

Annual reports of boards, commissions, etc., to contain estimates of appropriations required for the ensuing year, etc.

and he shall classify them and embody them in one document which shall be printed, and shall be submitted on or before the first Thursday in January of each year to the governor and council for examination, and the governor shall transmit the same to the general court with such recommendations, if any, as he may deem proper. He shall make recommendation as to how much should be raised by the issue of bonds and how much should be paid out of current revenue. Copies of the document shall be distributed to the members of the general court.

Plans, estimates, etc., to be submitted to the governor and council.

SECTION 3. The plans, estimates and specifications made in accordance with the provisions of chapter five hundred and twenty of the acts of the year nineteen hundred and seven, or of amendments thereof, relating to any improvement described in either of the documents aforesaid, shall at the same time be submitted to the governor and council.

Information in regard to revenue to be furnished.

SECTION 4. The auditor shall furnish to the governor and council such further information in regard to the revenue, expenditures and other financial operations of the commonwealth, and in such form as the governor may require.

Recommendations of the governor, etc.

SECTION 5. The governor may, in his discretion, transmit to the general court from time to time, with his recommendations, if any, thereon, particular items in either of the said documents, and may withhold other items for further investigation.

Repeal.

SECTION 6. Section twenty-six of chapter six of the Revised Laws, as amended by section six of chapter two hundred and eleven of the acts of the year nineteen hundred and five and section five of chapter five hundred and ninety-seven of the acts of the year nineteen hundred and eight, and all acts and parts of acts inconsistent herewith, are hereby repealed.

SECTION 7. This act shall take effect upon its passage. [*Approved March 16, 1910.*]

General duties of board.
1885, 314,
§ 8.
1887, 382,
§§ 1, 6; 385,
§§ 7, 10.
197 Mass. 558.

SECTION 5. Said board shall have the general supervision of all corporations and companies which are engaged in the manufacture and sale of gas or electricity for light or heat, and shall make all necessary examinations and inquiries and keep themselves informed as to the compliance of the several corporations and companies with the provisions of law.

Regulation of purity of gas.
1885, 314,
§ 11.
197 Mass. 558.

SECTION 6. The board shall, from time to time, ascertain what degree of purity can reasonably be required in gas made and supplied by corporations and companies engaged in the manufacture and sale of gas for light or

heat, and shall report to the general court, when, in its opinion, any change in the law relative thereto is desirable.

SECTION 7. The board shall annually, on or before the first Wednesday in January, transmit to the secretary of the commonwealth a report to the general court of its doings, with such suggestions as to the condition of affairs or conduct of corporations and companies which are engaged in the manufacture and sale of gas or electricity for light or heat as may be appropriate, with such abstracts of the returns required by section thirty-one as it considers expedient and an abstract of the accidents reported to it under the provisions of section thirty-nine.

Annual report.
1885, 314,
§ 14.
1886, 346,
§ 2.
1887, 382,
§§ 2, 6.
1888, 350,
§ 2.
See 1905,
211, § 1.

Revised Laws, Chapter 18, § 6.

SECTION 6. State boards and commissions shall annually, on or before the first Wednesday in January, deposit with the secretary of the commonwealth such parts of their annual reports which are required to be made to the governor and council or to the general court as contain recommendations or suggestions for legislative action, *such recommendations or suggestions to be accompanied by drafts of bills embodying the legislation recommended*, and the secretary shall forthwith transmit them to the governor and council or to the general court.

Recommendations for legislation.
1893, 144.
Amended.
1910, 452.

Revised Laws, Chapter 9, § 7.

SECTION 7. There shall be printed annually, before the assembling of the general court or as soon thereafter as possible, the number of copies of documents and reports hereinafter specified, the same to be numbered in a series to be called public documents. Said reports shall be as brief as possible without omitting any facts or information required by law to be contained therein. [No maps, plans, photogravures, wood cuts or other pictorial illustrations shall be introduced unless specially authorized by the general court or either branch thereof or, if the cost does not exceed five hundred dollars, with the previous approval of the secretary of the commonwealth, acting as supervisor of state printing, and of the auditor of accounts; but said reports may include abstracts or compilation of the statutes relative to the subject matter of the respective reports.] They shall be transmitted to the general court through the office of the secretary of the commonwealth. No more copies than is herein provided for shall be printed at the expense of the commonwealth or be

Public documents.
1857, 40, § 2.
G. S. 4, § 2.
1863, 219.
1876, 178.
1877, 248,
§§ 1, 5.
1878, 264,
§ 1.
1880, 193,
§ 1.
1881, 293,
§ 1.
P. S. 4, § 7.
1885, 369.
1889, 440,
§ 7.
1894, 393,
§ 7.
1896, 258.
1897, 243.
1901, 257.
1902, 228,
§ 8; 230,
269; 438,
§ 7; 470, § 2.

1903, 291;
390.
1904, 209;
388, §§ 1, 2;
410.
1905, 138;
275.

paid for out of any contingent fund, or out of the earnings of any department or institution which are the property of the commonwealth; and no bill for printing any larger number shall be approved by the auditor or paid out of any funds belonging to the commonwealth.

Gas and
electric light.
1886, 346, § 2.
1888, 122.

Of the board of gas and electric light commissioners, thirty-five hundred copies. 1889, 440, § 7. 1894, 393, § 7. 1895, 463, § 2.

Amended.
1903, 444.

Unless otherwise expressly provided, all the reports of permanent state officers, boards and commissioners shall be included in the public document series, and one thousand copies of each of said reports shall be printed. The number of copies of any report to be printed in any one year may be decreased by agreement between the officer, board or commission making such report and the secretary of the commonwealth.

Acts of 1910, Chapter 268.

An Act to provide for the Annual Preparation and Printing of Lists of State Officials and Employees with their Salaries or Compensation.

Lists of
officials and
employees of
the common-
wealth to be
furnished to
the governor
and council,
etc.

SECTION 1. Every department, commission, bureau or board of the commonwealth, shall, on or before the fifteenth day of July in the year nineteen hundred and ten, and on or before the fifteenth day of July in every year thereafter, prepare and furnish to the governor and council lists of all the officials and employees of the commonwealth employed in or by such department, commission, bureau or board on the first day of July preceding, for whose services money has been paid from the treasury of the commonwealth. The said lists shall be arranged by divisions of the several departments, commissions, bureaus or boards, when such divisions exist, and shall give the name, residence, designation, rate of compensation and the date of election or appointment of every such official and employee, and any increase in the rate of salary or compensation for the year preceding; and also the aggregate amount of all money paid for services or salaries to any official or employee, not otherwise shown upon the list, for the year beginning with the first day of July in the year preceding that in which the list is prepared. It shall be the duty of the auditor of the commonwealth to verify the said lists, the compensation and the said aggregate amounts from the pay roll. The said lists and aggregate amounts shall be printed at the expense of the commonwealth as a document of the commonwealth, before the first day of October in the year in which they are fur-

Auditor to
verify lists,
etc.

GAS AND ELECTRIC LIGHT COMPANIES.

17

nished, and the said document shall contain the complete data and facts called for by this act.

SECTION 2. This act shall take effect upon its passage. [*Approved March 22, 1910.*]

SECTION 8. If a corporation or company which is engaged in the manufacture and sale of gas or electricity for light or heat violates or neglects to comply with the provisions of law, or refuses or neglects to comply with any lawful order of the board, the board shall give notice thereof in writing to such corporation or company, and to the attorney general for his action.

Violations of law, report of. 1885, 314, § 12. 1887, 382, §§ 2, 6. [1 Op. A. G. 81.] 197 Mass. 558.

SECTION 9. The supreme judicial court or the superior court shall have jurisdiction in equity, upon the application of said board, to enforce all lawful orders of said board and all provisions of law relative to cities, towns, corporations or persons engaged in the manufacture and sale of gas or electricity for light or heat.

Enforcement of orders. 1885, 314, § 13. 1887, 382, § 2. 1896, 426. 197 Mass. 558.

GAS AND ELECTRIC LIGHT COMPANIES.

SECTION 10. No gas company, unless specially authorized, shall issue any bonds at less than the par value, nor for an amount exceeding its capital actually paid in and applied to the purposes of its incorporation.

Bonds of gas company to be issued only at par. 1886, 346, § 3. 159 Mass. 505.

SECTION 11. The proceeds of all bonds which may be issued shall be applied to the payment of obligations incurred for the enlargement or extension of the works and the purchase of real estate for the use of such gas company or for the payment of liabilities existing on the thirtieth day of June in the year eighteen hundred and eighty-six. A company may, subject to the provisions of sections twenty-four, twenty-six, twenty-seven and twenty-eight of chapter one hundred and nine, upon vote of a majority in interest of its stockholders at a meeting duly called for the purpose, issue bonds in accordance with the provisions of this and the preceding section, to bear interest at not more than six per cent per annum, and may secure the payment of principal and interest by a mortgage of its franchise and other property.

— application of proceeds of. 1886, 346, § 3. 1894, 450, §§ 1-3. 1896, 473. 159 Mass. 505.

SECTION 12. Any corporation which is organized under the laws of this commonwealth and is authorized to erect and maintain poles, wires or other fixtures in,

Mortgage bonds of electric light companies. 1890, 371.

over or under streets and highways for the purpose of furnishing electricity for light or power may secure the payment of bonds issued by it by a mortgage of its franchise in connection with its corporeal property, so that all persons who acquire any poles, wires or fixtures by virtue of such mortgage shall have the same rights and be subject to the same obligations relative to their erection, care and maintenance as the corporation would have had or been subject to if the mortgage had not been made. Such mortgage and all bonds shall be authorized by vote of a majority in interest of the stockholders of the corporation at a meeting called for that purpose; and the rate of interest on such bonds shall not exceed six per cent per annum. No bonds shall be issued by any such corporation for an amount exceeding its capital then actually paid in and applied to the purposes of the corporation.

Revised Laws, Chapter 109, §§ 20, 21, 24, 26, 27, 28, 30 and 31.

Stock or scrip dividends forbidden, when.
1868, 310, § 1.
1871, 389.
1874, 372, § 177.
P. S. 105, § 18; 112, § 61.
1894, 350, § 1.
See as to railroads and street railways,
1906, 463, II., §§ 63, 253;
III., §§ 105, 158.

Liability of directors.
1868, 310, § 2.
P. S. 105, § 19; 112, § 61.
1894, 350, § 2.
See as to railroads and street railways,
1906, 463, II., §§ 64, 253;
III., §§ 106, 158.

Issue of capital stock.
1875, 161.
P. S. 110, § 7.
1894, 450, § 1; 452, § 1; 462, § 1.
1897, 337, § 1.

SECTION 20. No telegraph, telephone, gas light, electric light, steam railroad, street railway, aqueduct or water company established under the laws of this commonwealth shall declare any stock or scrip dividend or divide the proceeds of the sale of stock or scrip among its stockholders; nor shall any such company issue any share of stock to any person unless the par value of the shares so issued is first paid in cash to its treasurer; and no railroad corporation shall without authority of the general court increase its capital stock beyond the maximum amount fixed by its act of incorporation or fixed under the provisions of section sixty-one of chapter one hundred and eleven.

SECTION 21. All certificates of stock or scrip which are issued in violation of the provisions of the preceding section shall be void; and the directors of the corporation which issues them shall be liable to a penalty of one thousand dollars each, to be recovered by indictment in any county in which any of them reside; but if any such director proves that, before such issue, he filed his dissent in writing thereto with the clerk, or was absent and at no time voted therefor, he shall not be so liable.

SECTION 24. Railroad corporations and street railway companies shall issue only such amounts of stock and bonds, coupon notes and other evidences of indebtedness payable at periods of more than twelve months after the date thereof, and gas and electric light companies, corporations established for and engaged in the business of transmitting intelligence by electricity, aqueduct

and water companies, shall issue only such amount of stock and bonds, as the board of railroad commissioners in the case of railroad corporations or street railway companies, the board of gas and electric light commissioners in the case of gas or electric light companies, may from time to time vote, or the commissioner of corporations in the case of the other corporations hereinbefore specified may from time to time determine, is reasonably necessary for the purpose for which such issue of stock or bonds has been authorized. Said boards or commissioner shall render a decision upon an application for such issue within thirty days after the final hearing thereon. Such decision shall be in writing, shall assign the reasons therefor, shall, if authorizing such issue, specify the respective amounts of stock or bonds, or of coupon notes or other evidences of indebtedness as aforesaid, which are authorized to be issued for the respective purposes to which the proceeds thereof are to be applied, shall, within seven days after it has been rendered, be filed in the office of the board or commissioner rendering it and a certificate of the vote of the board or of the decision of the commissioner shall, within three days after such decision has been rendered and before the stock or bonds or coupon notes or other evidences of indebtedness as aforesaid are issued, be filed in the office of the secretary of the commonwealth, and a duplicate thereof delivered to the corporation which shall enter the same upon its records. A company which is within the provisions of this section shall not apply the proceeds of such stock or bonds or coupon notes or other evidences of indebtedness as aforesaid to any purpose not specified in such certificate. The provisions of this section shall not require the approval of the board of railroad commissioners to the issue by any railroad corporation of capital stock or bonds, or of coupon notes or other evidences of indebtedness as aforesaid, duly authorized by law of this commonwealth, the proceeds of which are to be expended in another state or country or which are to pay for borrowed money expended in another state or country.

[1 Op. A. G. 659.]
 179 Mass. 20.
 180 Mass. 329.
 199 Mass. 356.
See as to railroads and street railways,
 1906, 463, II., §§ 65, 258;
 III., §§ 106, 158.
 1908, 636.
See as to gas and electric light companies,
 1908, 529, § 4.
 1909, 477.
 1910, 374.

SECTION 26. If, when the board of gas and electric light commissioners approves an issue of new stock or bonds by a gas or electric light company, it determines that the fair structural value of the plant of such company is less than its outstanding stock and debt, it may prescribe such conditions and requirements as it determines are best adapted to make good within a reasonable time the impairment of the capital stock; or, before allowing an increase, it may require the capital stock to be reduced by a prescribed amount not exceeding the amount of such impairment.

Capital stock of gas companies to be made good.
 1896, 473.
 199 Mass. 356.

The amount of impairment and the conditions and requirements imposed shall be stated in the annual report of the board.

Enforcement of statutes.
1894, 450,
§ 3; 452,
§ 3; 462, § 3.
1896, 475.
180 Mass. 329.
See as to rail-roads and street rail-ways,
1906, 463, II.,
§§ 67, 258;
III., §§ 109,
158.
Penalties.
1894, 450,
§ 2; 452, § 2;
462, § 2.
180 Mass. 329.
See as to rail-roads and street rail-ways,
1906, 463, II.,
§§ 68, 258;
III., §§ 110,
158.

SECTION 27. The supreme judicial court or the superior court shall have jurisdiction in equity, upon the application of the board of railroad commissioners, the board of gas and electric light commissioners, the commissioner of corporations, respectively, of the attorney general, of any stockholder or of any interested party, to enforce the provisions of the three preceding sections and all lawful orders and decisions, conditions or requirements of said boards or commissioner made in pursuance thereof.

SECTION 28. A director, treasurer or other officer or agent of any corporation named in section twenty-four who knowingly votes to authorize the issue of, or knowingly signs, certifies or issues, stock or bonds contrary to the provisions of the four preceding sections, or who knowingly votes to authorize the application, or knowingly applies the proceeds, of such stock or bonds contrary to the provisions of said sections, or who knowingly votes to assume or incur, or knowingly assumes or incurs in the name or behalf of such corporation, any debt or liability except for the legitimate purposes of the corporation shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both such fine or imprisonment.

New shares to be offered to stockholders upon increase of capital stock.
1870, 179.
1871, 392,
§ 1.
1873, 39,
§ 1; 305.
1878, 84, § 1.
1879, 90, § 1.
P. S. 106,
§ 39; 112,
§ 58; 113,
§ 16.
1893, 315,
§ 1.
1894, 472,
§ 1.
See as to rail-roads and street rail-ways,
1906, 463, II.,
§§ 69, 258;
III., §§ 111,
158.
1908, 636.
1909, 369.
See as to gas and electric light companies,
1909, 477.
1910, 374.

SECTION 30. If a corporation which owns or operates a railroad or street railway, a gas light, electric light, aqueduct or water company, or a corporation which is established for and is engaged in the business of transmitting intelligence by electricity, increases its capital stock, such new shares as are necessary to produce the amount of increased capital stock which has been authorized shall, except as provided in the following section, be offered proportionately to its stockholders at not less than the market value thereof at the time of increase, to be determined by the board of railroad commissioners in the case of a railroad corporation or street railway company, by the board of gas and electric light commissioners in the case of a gas light or electric light company, and by the commissioner of corporations in the case of an aqueduct or water company or of a corporation which is established for and is engaged in the business of transmitting intelligence by electricity, taking into account previous sales of stock of the corporation and other pertinent conditions, which determination shall be in writing and with the date thereof shall be certified to and recorded in the books of the corporation. The directors, upon the approval of such increase as provided in section twenty-four and the determination of the market value

as hereinbefore provided, shall cause written notice of such increase to be given to each stockholder who was such at the date of the vote to increase, stating the amount of such increase, the number of shares or fractions of shares to which he, according to the proportionate number of his shares at the date of such vote, is entitled, the price at which he is entitled to take them, and fixing a time, not less than fifteen days after the date of such determination, within which he may subscribe for such additional stock. Each stockholder may, within the time limited, subscribe for his portion of such stock, which shall be paid for in cash before the issue of a certificate therefor.

SECTION 31. If the increase in the capital stock which is subject to the provisions of the preceding section does not exceed four per cent of the existing capital stock of the corporation, the directors, without first offering the same to the stockholders, may, and if, after the expiration of the time limited in the notice required by the preceding section, any shares remain unsubscribed for by the stockholders entitled to take them, the directors shall sell them by auction to the highest bidder at not less than the par value thereof to be actually paid in cash. Such shares shall be offered for sale in the city of Boston or in such other city or town as may be prescribed by such commissioners; and notice of the time and place of such sale shall be published at least five times during the ten days immediately preceding the sale in each of at least three of such daily newspapers as may be prescribed by such commissioners. No shares shall be sold or issued under this or the preceding section for a less amount to be actually paid in cash than the par value thereof.

Stock to be sold at auction, when.
 1870, 179.
 1871, 392, § 2.
 1873, 39, § 1;
 305, 333.
 1874, 372,
 § 46.
 1878, 84, § 2.
 1879, 90.
 P. S. 106,
 § 40; 112,
 §§ 59; 113,
 § 16.
 1893, 315, § 2.
 1894, 472,
 §§ 1, 2.
See as to rail-roads and street rail-ways,
 1906, 463, II.,
 §§ 70, 258;
 III., §§ 112,
 158.
 1908, 636.
See as to gas and electric light companies,
 1909, 477, § 2.

Acts of 1909, Chapter 477.

An Act relative to the Issue of Additional Capital Stock by Gas and Electric Light Companies.

SECTION 1. A gas or electric light company shall, upon any increase of its capital stock, except as provided in the following section, offer the new shares proportionately to its stockholders at such price, not less than the par value thereof, as may be determined by its directors. The vote of the board of gas and electric light commissioners, as provided in section twenty-four of chapter one hundred and nine of the Revised Laws, as to the amount of stock which is reasonably necessary for the purpose for which such increase has been authorized shall be based on the price fixed as hereinbefore provided, unless the board is of opinion that such price is so low as to be inconsistent with the public interest, in which case it may determine the price at which such shares may

Issue of new stock of gas and electric light companies, etc. Amended. 1910, 374.

be issued. *No application for an issue of stock under said section twenty-four shall be made unless authorized by vote of the stockholders passed not more than four months prior to such application, but the vote of the stockholders to increase the capital stock may be passed before or after the action of the board under said section twenty-four. All votes and proceedings relative to the increase and all rights of the stockholders to subscribe for the new shares shall become void unless the directors, after the vote to increase the capital stock and within sixty days after the final action of the board, shall cause written notice of such increase to be given as provided by law.*

Shares may be sold by auction in certain cases, etc.

SECTION 2. If the increase in the capital stock which is subject to the provisions of the preceding section does not exceed four per cent of the existing stock of the company, the directors, without first offering the same to the stockholders, may sell the shares by auction or by tender to the highest bidder in such manner, at such times and upon such terms, not less than the par value thereof to be actually paid in cash, as the directors shall determine. They shall also so sell at public auction any shares which, under the preceding section remain unsubscribed for by the stockholders entitled to take them. Such shares shall be offered for sale in the city of Boston or in such other city or town as may be prescribed by the board of gas and electric light commissioners, and notice of the time and place of the sale shall be published at least five times, during the ten days immediately preceding the sale, in each of at least three of such daily newspapers as may be prescribed by the said commissioners. No shares shall be sold or issued under this or the preceding section for a less amount to be actually paid in cash than the par value thereof.

Repeal.

SECTION 3. All acts and parts of acts inconsistent herewith are hereby repealed so far as they apply to the corporations described in this act.

SECTION 4. This act shall take effect upon its passage. [*Approved June 7, 1909.*]

Acts of 1906, Chapter 392.

An Act to prevent Stock and Debt Watering by Public Service Corporations.

In cases of consolidation of certain companies, stock not to be increased. See also 1908, 529. 1909, 316.

SECTION 1. When a gas company incorporated under the laws of this Commonwealth consolidates with any other such gas company or companies, or an electric light company incorporated under the laws of this Commonwealth consolidates with any other such electric light company or companies, or any such gas company or companies consolidate with any such electric light com-

panty or companies, the aggregate amount of the capital stock and the aggregate amount of the debt of the consolidating companies shall not, by reason of such consolidation, be increased.

SECTION 2. This act shall take effect upon its passage. [*Approved May 15, 1906.*]

Revised Laws, Chapter 126, §§ 11 and 1.

SECTION 11. If a foreign corporation which owns or controls a majority of the capital stock of a domestic street railway, gas light or electric light corporation issues stock, bonds or other evidences of indebtedness based upon or secured by the property, franchise or stock of such domestic corporation, unless such issue is authorized by the law of this commonwealth, the supreme judicial court shall have jurisdiction in equity in its discretion to dissolve such domestic corporation. If it appears to the attorney general that such issue has been made, he shall institute proceedings for such dissolution and for the proper disposition of the assets of such corporation. The provisions of this section shall not affect the right of foreign corporations, their officers or agents to issue stock and bonds in fulfilment of contracts existing on the fourteenth day of July in the year eighteen hundred and ninety-four.

Issue of stock on domestic franchises regulated. 1894, 476.

SECTION 1. The term foreign corporation as used in this chapter shall mean a corporation, association or organization which has been established, organized or chartered under the laws of another state or of a foreign country.

Foreign corporations defined. 168 Mass. 564.

SECTION 13. A gas company shall not transfer its franchise, lease its works or contract with any person, association or corporation to carry on its works, without the authority of the general court.

Transfer of franchise. 1886, 346, § 4. 166 Mass. 217.

SECTION 14. The board of gas and electric light commissioners, upon application in writing by any gas light company which is organized or chartered under the laws of the commonwealth, may, after notice and a hearing, authorize said company to engage in the business of generating and furnishing electricity for light and power. A gas company may engage in such business in the territory, or any such part thereof as the board may designate, in which it is authorized to supply gas; but a company shall not engage in said business unless authorized by vote of two-thirds of the stockholders, representing not less than two-thirds of the stock, at a meeting duly called for that purpose. Said company shall file in the office of the secretary of the commonwealth a certificate

Electric light and power, authority to furnish. 1887, 385, § 1. 197 Mass. 558. See 1908, § 29, § 5. 1909, 316, § 1.

as provided in section forty-seven of chapter one hundred and ten.

Time pre-
scribed for
equipment of
plant.
1887, 385, § 2.
197 Mass.
558.

SECTION 15. The board, when granting such authority, shall prescribe the time, not exceeding six months, within which said company shall erect and equip a plant for generating electricity for light and power such as may be required in the specified territory, and shall designate the minimum capacity of such plant; and if the company neglects to erect and complete said plant within the time prescribed, said authority shall become void and no such authority shall be again granted to it within two years thereafter. The board may for cause shown extend the time for erecting and equipping said plant for not more than three months from the expiration of the time first prescribed.

Record of
orders for
erection of
plant and of
compliance.
1887, 385,
§ 3.

SECTION 16. At the expiration of such time or of any extension thereof, said board shall, after such examination as it considers proper, make, in a book kept for that purpose, a record that its orders relative to the erection and completion of said plant have or have not been complied with, which shall be conclusive evidence of the truth of the matters stated therein.

Erection of
poles and
wires regu-
lated.
1887, 385,
§ 4.
184 Mass. 570.

SECTION 17. Said company, except upon the purchase or lease of the property, licenses, rights and franchises of an electric light company as authorized under the provisions of section twenty-two, shall not erect or maintain any poles for the support of wires, nor erect or maintain any wires in, through or over any streets or highways, nor dig up any streets or highways for the purpose of laying said wires underground, until it has, upon petition in writing, obtained the consent in writing of the mayor and aldermen of cities or the selectmen of towns in which said streets are located. It may thereupon, under the direction and control of the mayor and aldermen or selectmen, dig up and open the ground in any streets and highways, so far as is necessary for the purpose of laying wires and for the purpose of keeping said wires in repair and for the purpose of erecting and maintaining lines of wire upon or above the surface of such streets and highways. It shall put all streets and highways which it opens into as good repair as they were in when opened, and upon failure so to do within a reasonable time, shall be deemed guilty of a nuisance.

SECTION 18. If a person who is injured in his person or property by a defect in a public way which is caused by the operations of said company in laying, erecting, maintaining or repairing its lines of wires or in otherwise obstructing such way recovers damages therefor of the city or town in which such injury is received, such city or town shall, if said company is liable for said damages and has had reasonable notice to appear and defend the original action, be entitled to recover of said company the damages so recovered from it with the taxable costs of both parties in such action.

Damages.
1887, 385,
§ 5.

SECTION 19. The mayor and aldermen of cities and the selectmen of towns, respectively, may regulate, restrict and control all acts of said company which may in any manner affect the health, safety, convenience or property of the inhabitants of their respective cities or towns.

Regulation of
acts affecting
health and
property of
inhabitants.
1887, 385,
§ 6.

SECTION 20. Gas companies, as respecting the business in which they are, by the provisions of section fourteen, authorized to engage, shall be subject to the control of the board of gas and electric light commissioners in the same manner and to the same extent as they are in respect of the business of furnishing gas.

Control by
gas and elec-
tric light com-
missioners.
1887, 385,
§ 7.

SECTION 21. Except as hereinbefore expressly provided, gas companies shall, in exercising the powers conferred by the provisions of the seven preceding sections, have all the powers and privileges and be subject to all the duties, restrictions and liabilities of companies which are engaged in the transmission of electricity for light or power under the general laws which now are or hereafter may be in force.

Powers and
duties of
companies.
1887, 385,
§ 8.

SECTION 22. Said gas companies so authorized by the board of gas and electric light commissioners may purchase or lease and use the property, licenses, rights, privileges and franchises of any electric light company which is engaged in the business of furnishing electric light or power in the territory in which such gas company may be authorized to furnish such light and power.

Purchase of
franchises,
etc., of
electric light
companies.
1887, 385, § 9.
See 1908,
529, § 5.
1909, 316,
§ 1.

SECTION 23. The provisions of the nine preceding sections, which are applicable to gas companies authorized to engage in the business of generating and furnishing electricity for light and power, shall also apply to electric light and power companies.

Application to
electric light
and power
companies.
1887, 385,
§ 10.

Acts of 1908, Chapter 529.

An Act to authorize the Purchase, Sale and Consolidation of Gas and Electric Light Companies.

Purchase, sale, etc., of electric light companies.

SECTION 1. In this act "gas company" means any corporation organized under the laws of this commonwealth for the purpose of making or selling gas for light, heat or power, and actually engaged in that business, including such of said corporations as are also duly authorized to generate and furnish electricity for light and power; and "electric light company" means any corporation organized under the laws of this commonwealth for the purpose of making or selling electricity only for light, heat or power and actually engaged in that business.

Consolidation may be effected in case of companies occupying the same or contiguous municipalities.

SECTION 2. A gas company may purchase the franchise and property of another gas company whose gas mains are in the same or contiguous municipalities, or may consolidate with such other gas company, and such other gas company may sell and convey its franchise and property to, or may consolidate with, such first-mentioned gas company; and an electric light company may purchase the franchise and property of another electric light company whose lines are in the same or contiguous municipalities, or may consolidate with such other electric light company, and such other electric light company may sell and convey its franchise and property to, or may consolidate with, such first-mentioned electric light company: *provided*, that no such purchase and sale or consolidation shall be valid or binding until the terms thereof have been approved, at meetings called for the purpose, by a vote of at least two-thirds in interest of the stockholders of each of the contracting companies, and until the board of gas and electric light commissioners, after notice and a public hearing, have determined that the facilities for furnishing and distributing light, heat and power will not thereby be diminished and that such purchase and sale or consolidation and the terms thereof are consistent with the public interest.

Proviso.

Powers, rights, locations, etc.

SECTION 3. The purchasing or consolidating company shall have and enjoy all the powers, rights, locations, licenses, privileges and franchises, and shall be subject to all the duties, liabilities and restrictions, of the company selling or merged as aforesaid, so far as the same are applicable to the purchasing or consolidated company.

Capital stock may be increased, etc.

SECTION 4. The purchasing or consolidated company may, for the purpose authorized in section two, increase its capital stock and issue bonds in the manner and subject to the limitations provided by law; and may, for the same purpose and subject to the

same limitations, exchange its securities for those of the selling or merged company, upon such terms as may be approved by the board of gas and electric light commissioners.

SECTION 5. No electric light company shall purchase the franchise or property of, or consolidate with, a gas company; and no gas company shall purchase the franchise or property of, or consolidate with, an electric light company: *provided*, that a gas company authorized to engage in the business of generating and furnishing electricity for light and power under the provisions of section fourteen of chapter one hundred and twenty-one of the Revised Laws may, with the approval of the board, exercise the authority conferred by section twenty-two of said chapter, *and may, with the approval of the board and subject to the provisions of sections three and four hereof, so far as the same may be applicable, sell its locations and the property used in its business of generating and furnishing electricity for light and power to an electric light company whose lines are in the same or in a contiguous municipality.*

Electric light companies not to consolidate with gas companies, etc. Amended. 1909, 316, § 1.

SECTION 6. Nothing contained in this act shall be construed as authorizing the consolidation of the Boston Consolidated Gas Company and The Edison Electric Illuminating Company of Boston.

Consolidation of certain companies not authorized.

SECTION 7. All general laws which are inconsistent herewith are hereby repealed.

SECTION 8. This act shall take effect upon its passage. [*Approved May 19, 1908.*]

Acts of 1909, Chapter 316.

An Act relative to the Purchase, Sale and Consolidation of Gas and Electric Light Companies.

SECTION 1. (Amends Acts of 1908, chapter 529, § 5, as above.)

SECTION 2. All applications for the approval by the board of purchases and sales or consolidations under the provisions of chapter five hundred and twenty-nine of the acts of the year nineteen hundred and eight, or of the preceding section, shall be filed with the board within four months after the passage by the contracting companies of votes authorizing such purchase and sale or consolidation.

Time for filing applications for purchases, consolidations, etc.

SECTION 3. This act shall take effect upon its passage. [*Approved April 22, 1909.*]

SECTION 24. A person or corporation, not a railway company, engaged in the business of transmitting electricity for light or power through wires located over or under the streets and highways may sell such electricity

Electricity for heating and cooking purposes. 1895, 420. 188 Mass. 253.

for operating heating, cooking and kindred apparatus and motors; but the provisions of this section shall not confer upon such person or corporation the exclusive right to sell or distribute electricity in any city or town for such purposes.

A second gas company not to lay pipes, except.
1885, 314,
§ 10.
1886, 346,
§ 7.

SECTION 25. In a city or town in which a gas company exists in active operation, or in which a person owns or operates works for the manufacture and sale of gas for light or heat, no other gas company, nor any other persons, shall dig up and open the streets, lanes and highways of such city or town, for the purpose of laying gas pipes therein, without the consent of the mayor and aldermen or selectmen, granted after notice by publication or otherwise to all parties interested and a public hearing before them.

Erection of wires of different companies restricted.
1887, 382, § 3.
1892, 274.
1895, 350.
1901, 389.
157 Mass. 86.
[1 Op. A. G. 88.]
188 Mass. 253.
197 Mass. 558.
See us to power companies,
1908, 617.

SECTION 26. In a city or town in which a company, corporation or person is engaged in the manufacture or sale of electric light no other person, firm or corporation shall lay, erect, maintain or use, over or under the streets, lanes and highways of such city or town, any wires for the transmission of electricity for light, heat or power except wires used for heat or power by street railway companies, without the consent of the mayor and aldermen of such city or selectmen of such town granted after notice to all parties interested and a public hearing.

Appeal.
1885, 314,
§ 16.
1887, 382,
§ 5.
[1 Op. A. G. 89.]

SECTION 27. Any corporation, company or person aggrieved by the decision of the mayor and aldermen of a city or selectmen of a town, under the provisions of the two preceding sections, may, within thirty days from the notice of said decision, appeal therefrom to the board of gas and electric light commissioners, and said board shall thereupon give due notice and hear all parties interested, and its decision thereon shall be final.

Acts of 1908, Chapter 617.

An Act relative to Electric Power Companies.

Certain terms, restrictions, etc., may be imposed upon the laying, etc., of certain wires for the transmission of electricity.

SECTION 1. In consenting to the laying, erecting, maintaining or using by a company incorporated or authorized to distribute and sell electricity exclusively for power, of any wires for the transmission of electricity over or under streets, lanes and highways as provided in section twenty-six of chapter one hundred and twenty-one of the Revised Laws, the mayor and aldermen of a city or the selectmen of a town may, in addition to the pro-

visions of law governing such companies, impose such other terms, limitations and restrictions as the public interest may, in their judgment, require, and upon an appeal therefrom, pursuant to section twenty-seven of said chapter, the board of gas and electric light commissioners may, in addition to its present authority under said section, affirm, amend, alter or add to the terms, limitations and restrictions so imposed as the public interest may in its judgment require.

SECTION 2. Companies hereinbefore described shall hereafter furnish from time to time to the board of gas and electric light commissioners such information as said board may require.

Certain companies to furnish information to gas and electric light commissioners. Supreme judicial and superior courts to have jurisdiction in equity to compel observance, etc.

SECTION 3. The supreme judicial court or the superior court shall have jurisdiction in equity upon the application of the board of gas and electric light commissioners, or of the mayor of any city or the selectmen of any town in which electricity is distributed and sold as aforesaid, to compel the observance and to restrain the violation of the provisions of this act, of the general laws relating to the companies hereinbefore described and of all lawful orders and decisions, terms, limitations and restrictions made or imposed by said board or by the mayor and aldermen of a city or the selectmen of a town in pursuance of the provisions of this act.

SECTION 4. This act shall take effect upon its passage. [*Approved June 12, 1908.*]

SECTION 28. Corporations and companies which are engaged in the manufacture and sale of gas or electricity for light or heat shall have an office in the city or town in which their works are located and shall keep in said office all the books and papers which are required by law to be kept within the commonwealth, and also such books as may be required to show their receipts, expenditures, indebtedness and financial condition; and shall at all times, upon application, submit their books to the inspection of the board of gas and electric light commissioners.

Gas, etc., company to have office where works are located. 1886, 346, § 1. 1887, 382, §§ 2, 6.

SECTION 29. Corporations and companies which are engaged in the manufacture and sale of gas or electricity for light or heat shall keep their books and accounts in a form to be prescribed by the board of gas and electric light commissioners, and the accounts shall be closed annually on the thirtieth day of June, so that a balance sheet of that date can be taken therefrom. Manufacturing companies in which the manufacture of gas is a minor portion

Books, etc., to be kept in prescribed form. 1886, 346, § 2. 1887, 382, §§ 2, 6.

of their business shall be required to keep accounts of the expenses and income of their gas business only.

Station records to be kept.
1896, 356,
480.

SECTION 30. Persons or corporations engaged in the manufacture or sale of gas or electric light shall keep such records of their work at their manufacturing station, and in respect to their distributing plant, as the board of gas and electric light commissioners may from time to time require. Said records shall be in such form as the board may prescribe.

Annual returns.
1885, 314,
§ 7.
1886, 346,
§ 2.
1887, 382,
§ 2.
[1 Op. A. G.
186.]
Amended.
1903, 406.

SECTION 31. Corporations and companies engaged in the manufacture and sale of gas or electricity for light or heat shall annually, on or before the second Wednesday of September, make to said board, in a form prescribed by it, a return for the year ending on the thirtieth day of June *preceding*, signed and sworn to by its president and treasurer and a majority of the directors, of the amount of its authorized capital, its indebtedness and financial condition, on the [first day of January] *said thirtieth day of June preceding*, its income and expenses during the preceding year, its dividends paid out and declared, a list of the names of all its salaried officers, and the amount of the annual salary paid to each, and the balance sheet of its accounts as of [the] *said preceding thirtieth day of June*. Every such corporation and company shall at all times, upon request, furnish any information required by the board relative to its condition, management and operation, and shall comply with all lawful orders of said board.

Penalty.
1885, 314,
§ 7.
1892, 263.

SECTION 32. Each such gas or electric light corporation or company neglecting to make the annual return required by the preceding section, shall, for the first fifteen days or portion thereof during which such neglect continues, forfeit five dollars a day; for the second fifteen days or any portion thereof, ten dollars a day; and for each day thereafter not more than fifteen dollars a day. If any company unreasonably refuses or neglects to make such return, it shall, in addition thereto, forfeit not more than five hundred dollars for each offence. All forfeitures recovered under the provisions of this section shall be paid into the treasury of the commonwealth and applied to the payment of the expenses of the board. (*See also Acts of 1904, chapter 435, § 2, on pages 12, 13.*)

Acts of 1909, Chapter 441.

An Act relative to Voluntary Associations under Written Instruments.

SECTION 1. Trustees of a voluntary association under a written instrument or declaration of trust the beneficial interest under which is divided into transferable certificates of participation or shares, shall file a copy of such written instrument or declaration of trust with the commissioner of corporations and with the clerk of every city or town in which such association has a usual place of business.

Copies of certain instruments to be filed with the commissioner of corporations, etc.

SECTION 2. Trustees of a voluntary association under a written instrument or declaration of trust the beneficial interest under which is divided into transferable certificates of participation or shares, who own or control a majority of the capital stock of a railroad, street railway, gas company, or electric light company, shall annually on or before the first day of May file with the commissioner of corporations and with the board having supervision of such company a statement showing the number of shares of such company owned or controlled by them and the stockholders of record on the books of such company in whose names such shares are held. [Approved May 24, 1909.]

Certain statements to be filed, etc.

SECTION 33. Upon the petition in writing of any person who has a residence or place of business in a city or town in which a corporation or company is engaged in the manufacture [and] or sale of gas or electricity for light [or heat], *heat or power* and who is aggrieved by the refusal or neglect of such corporation or company to supply him with gas or electricity, the board of gas and electric light commissioners may, after notice to the corporation or company to appear at a time and place therein named to show cause why the prayer of such petition should not be granted, issue an order directing and requiring the corporation or company [to supply the petitioner with gas for either of said purposes or with electric light, upon such terms and conditions as are legal and reasonable.] *engaged in the manufacture and sale of gas to supply the petitioner with gas for any of said purposes, or the corporation or company engaged in the manufacture and sale of electricity to supply the petitioner with electricity for any of said purposes, upon such terms and conditions as are legal and reasonable.*

Supply of gas or electricity, how enforced, 1886, 346, § 5, 1887, 382, §§ 2, 6. Amended. 1903, 164. 197 Mass. 557.

Quality of
gas.
1885, 314,
§ 9.
1887, 382,
§§ 2, 6.
1888, 350,
§ 1.
1894, 327.
197 Mass. 558.

SECTION 34. Upon the complaint in writing of the mayor of a city or the selectmen of a town in which a corporation or company engaged in the manufacture or sale of gas or electricity for light or heat is located, or of twenty customers thereof, either of the quality or price of the gas or electric light sold and delivered, the board shall notify the corporation or company by leaving at its office a copy of such complaint, and shall thereupon after notice give a public hearing to such petitioner and such corporation or company, and after said hearing may order any reduction in the price of gas or electric light or improvement in quality thereof, and a report of such proceedings and the result thereof shall be included in its annual report. The maximum price fixed by such order shall not thereafter be increased by such corporation or company except as provided in the following section.

Price of gas
and electric-
ity, how
fixed and
determined.
1888, 350,
§ 1.
1894, 327.
197 Mass. 558.

SECTION 35. A gas company in this commonwealth which furnishes gas under the provisions of general or special laws or of any contract with a city or town, and a gas or electric light company which is engaged in the sale and delivery of electric light may apply to the board to fix and determine the price of gas or electricity to be thereafter sold and delivered by said company, or to revise any former order or action of said board relative to the quality or price thereof. Said board shall, after notice, give a public hearing to the petitioner, to the city or town and to all other persons interested, and thereafter may pass such orders relative to the price and quality of the gas or electricity thereafter to be furnished by said company as it determines are just and reasonable. Such orders shall be binding upon all parties until further order of said board.

Inspection
of electric
meters.
1901, 497,
§ 1.

SECTION 36. A customer of an electric lighting company or such company may apply to the board of gas and electric light commissioners for an examination and test of any meter in use upon a customer's premises. The board shall forthwith cause to be made by a competent and disinterested person such examination and test of said meter, if any, as in the judgment of the board is practicable and reasonable, and shall furnish to the company and to the customer a certificate of the result and expense thereof. If upon such examination it appears that the meter does not register correctly, the board may

order the company to correct or remove such meter and to substitute a correct meter therefor. All fees for examinations and tests shall in the first instance be paid by the person or company making application therefor; but if the examination or test is made at the request of a customer and the meter is found to be incorrect because too fast the company shall pay such fees to the board, to be repaid by it to the applicant. A meter shall be deemed correct for the purposes of this section if it appears from such examination or test that it does not vary more than five per cent from the standard approved by the board.

SECTION 37. The person designated to make such inspection may at any reasonable time enter upon any premises where the meter to be inspected is placed, for the purpose of making the inspection. He shall receive such compensation for his services as the board may determine, together with his necessary travelling and other expenses, which shall be audited by the board and paid from the treasury of the commonwealth; but the total amount of compensation and expenses shall not exceed three thousand dollars in any year; and if the total amount of such compensation and expenses shall in any year exceed the amount of the fees received for such examinations and tests, the excess shall be assessed and recovered from the electric light companies in the manner now provided for the assessment and recovery of the other expenses of the board. All money received for fees for such examinations and tests shall be paid into the treasury of the commonwealth by the board quarterly on the first Mondays of January, April, July and October of each year. The board may establish such rules and regulations, fix such standards, prescribe such fees, and employ such means and methods in, and in connection with, such examinations and tests of electric meters as in the judgment of the board shall be most practicable, expedient and economical. The board may purchase such materials, apparatus and standard measuring instruments for such examinations and tests as it may deem necessary.

SECTION 38. In the two preceding sections the word "company" or "companies" shall include every person, partnership, association, corporation and municipality engaged in the sale of incandescent electric light or electricity for incandescent lighting.

Inspection
of electric
meters,
expense and
registration
thereof.
1901, 497,
§§ 2, 3.
Affected.
See 1909, 318.

Definition.
1901, 497,
§ 4.

Report of
accidents.
1888, 350,
§ 2.
1896, 338.

SECTION 39. Companies, persons and municipalities engaged in the manufacture and sale of gas or electricity for light or fuel shall, within twenty-four hours, report, in writing, to the board every accident caused by the gas or electricity manufactured or supplied by them, whereby an employee or other person is injured, killed or rendered insensible, stating the time, place and circumstances of the accident and such other facts relative thereto as the board may require. The chief of police of the city or town, and the medical examiner of the district, in which such accident occurs shall, in writing, report the same to said board. The chief of police shall so report within twenty-four hours, and the medical examiner within seven days, after he has notice thereof. The members of the board shall personally investigate all cases which require investigation.

Penalty for
unlawful
diversion of
electricity,
etc.
1895, 330.
Amended.
1908, 243.

SECTION 40. Whoever unlawfully and intentionally injures or destroys, or suffers to be injured or destroyed, any meter, pipe, conduit, wire, line, pole, lamp or other apparatus belonging to a *street railway company, an electric railroad company* or a corporation, *private or municipal*, or company engaged in the manufacture or sale of electricity for lighting purposes, or unlawfully and intentionally prevents an electric meter from duly registering the quantity of electricity supplied, or in any way interferes with its proper action or just registration, or, without the consent of such corporation or company, unlawfully and intentionally diverts any electric current from any wire of such corporation or company, or otherwise unlawfully and intentionally uses or causes to be used, without the consent of such corporation or company, any electricity manufactured or distributed by such corporation or company, shall, for every such offence, be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

Construction
of terms.
1886, 346,
§ 7.
1887, 382,
§ 6.

SECTION 41. In the construction of sections four, five, six, seven, eight, twenty-eight, twenty-nine, thirty-one, thirty-three, and thirty-four of this chapter, the terms "gas company", and "corporation" shall include all persons owning or operating works for the manufacture and sale of gas for heating or illuminating purposes

within the commonwealth, and the terms "company" and "companies" shall include all corporations or individuals engaged in the manufacture and sale of electric light within the commonwealth.

Acts of 1909, chapter 490, Part I., § 23 (as amended by Acts of 1909, chapters 439 and 440).

SECTION 23. All personal estate, within or without the commonwealth shall be assessed to the owner in the city or town in which he is an inhabitant on the first day of [May] April, except as provided in Part III and in the following clauses of this section: —

Assessment of personal estate. 1830, 151, § 2. R. S. 7, §§ 9, 10. 1839, 139, § 2.

	G. S. 11, § 12.	P. S. 11, § 20.	R. L. 12, § 23.
1 Met. 242, 250.	13 Gray, 488.	112 Mass. 384.	135 Mass. 258.
4 Met. 181.	16 Gray, 292.	124 Mass. 143.	137 Mass. 332.
10 Cush. 65.	337.	125 Mass. 348.	158 Mass. 461.
11 Cush. 362.	9 Allen, 246.	126 Mass. 161.	180 Mass. 41.
3 Gray, 494.	14 Allen, 366.	166.	187 Mass. 171.
6 Gray, 579.	103 Mass. 279.	131 Mass. 424.	195 Mass. 389.
7 Gray, 277.	104 Mass. 587.	132 Mass. 93.	204 Mass. 139.
9 Gray, 433.	109 Mass. 270.		

Tenth, Underground conduits, wires and pipes laid in public streets, and poles, underground conduits and pipes, together with the wires thereon or therein, laid in or erected upon private property, or in a railroad location by any corporation, except street railway companies, the value of whose poles, underground conduits and pipes, together with the wires thereon or therein, for the purpose of taxation, shall, like their rails and rights of way, be included in, and not deducted from, the value of their corporate franchises ascertained as provided by section one hundred and twenty-six of Part III of chapter four hundred and sixty-three of the acts of the year nineteen hundred and six, and excepting also such poles, underground conduits, wires and pipes of a railroad corporation laid in the location of said railroad, shall be assessed to the owners thereof in the cities or towns in which they are laid or erected.

Assessment of underground conduits, etc. 1902, 342, § 1. 193 Mass. 274.

Acts of 1909, Chapter 490, Part III., §§ 39, 40, 41, 42, 43, 45.

TAXATION OF CORPORATE FRANCHISES.

SECTION 39. The term "domestic business corporation" as used in this act shall mean every corporation of the classes enumerated in section one of chapter four hundred and thirty-seven of the acts of the year nineteen hundred and three; the term "foreign corporation" shall mean every corporation, association or organization of the classes enumerated in section fifty-eight of said chapter.

Definitions.

Annual returns to tax commissioner.

1864, 208.

§§ 2, 3.

1865, 283,

§ 3.

1880, 117,

§ 2.

P. S. 13,

§ 38.

1885, 238,

§ 1.

1886, 270.

1888, 413,

§ 24.

1898, 417;

578, § 2.

R. L. 14,

§ 37.

1902, 342,

§ 2.

1903, 437,

§ 48.

1906, 463, II.,

§ 211; III.,

§ 125; 516,

§ 14.

12 Allen, 75.

98 Mass. 25.

139 Mass. 561.

144 Mass. 598.

146 Mass. 408.

157 Mass. 70.

[1 Op. A. G.

278.]

179 Mass. 18.

181 Mass. 208.

185 Mass. 117.

195 Mass. 387.

Amended.

1909, 440,

§ 2.

SECTION 40. Every corporation organized under the general or special laws of the commonwealth for purposes of business or profit, having a capital stock divided into shares, except banks, whose shares are otherwise taxable under the provisions of this part, in addition to all returns required by its charter, and in addition to all returns otherwise required under the provisions of this part, shall annually, between the first and tenth days of [May] April make a return to the tax commissioner, under oath of its treasurer, stating the name of the corporation, its place of business, and setting forth as of the first day of [May] April of the year in which the return is made:—

First, The total authorized amount of the capital stock of the corporation; the amount issued and outstanding and the amount then paid thereon; the classes, if any, into which it is divided; the par value and number of its shares; the market value of the shares of its stock, or of each class of its stock, if there are two or more classes.

Second, A statement in such detail as the tax commissioner may require of the works, structures, real estate, machinery, underground conduits, wires and pipes, owned by said corporation and subject to local taxation within the commonwealth, and of the location and value thereof; and, in the case of domestic business corporations, of the merchandise and other assets belonging to the corporation within and without the commonwealth.

Third, And, except as to street railway companies, a complete list of the shareholders of the corporation, their residences, and the amount and class of stock, if more than one, belonging to each. If stock is held as collateral security, the list shall state the name and residence of the pledgor and of the pledgee.

Such domestic companies may annually, between the first and tenth days of [May] April, make a return to the tax commissioner, signed and sworn to by their president, treasurer and clerk, specifying the amount and market value of all stocks in other corporations held by them upon which a tax has been assessed and actually paid either in this or in any other state for the year preceding the date of said return; and the books, accounts and papers of such corporations shall be examined by the tax commissioner so far as may be necessary for the verification of said return. Other corporations required to make a return under the provisions of this section shall also state therein the amount, value and location of all works, structures, real estate, machinery, underground conduits, wires and pipes owned by them and sub-

ject to local taxation without the commonwealth. Such return shall be filed by the tax commissioner, and shall, in the case of said domestic business corporations, be open only to the inspection of the tax commissioner, his clerks and assistants, and such other officers of the commonwealth as may have occasion to inspect it for the purpose of assessing or collecting taxes.

SECTION 41. The tax commissioner shall ascertain from the returns or otherwise the true market value of the shares of each corporation subject to the requirements of the preceding section, and shall estimate therefrom the fair cash value of all of said shares constituting its capital stock on the preceding first day of [May] April, which, unless by the charter of a corporation a different method of ascertaining such value is provided, shall, for the purposes of this part, be taken as the true value of its corporate franchise. From such value there shall be deducted:

- Valuation of corporate franchise, etc.
- Deductions.
- 1864, 208,
- §§ 5, 6,
- 1865, 283,
- §§ 4, 5,
- 1880, 117,
- § 2.
- P. S. 13,
- §§ 39, 40.
- 1885, 238,
- § 1.
- 1886, 270.
- 1898, 417.
- R. L. 14, § 38.
- 1902, 342,
- § 3.
- 1903, 437,
- § 72.
- 1906, 463, II.,
- § 212; III.,
- § 126; 516,
- § 15.
- 1907, 395.
- 1909, 439,
- § 2
- 13 Allen, 391.
- 98 Mass. 19,
- 25.
- 100 Mass. 184,
- 399.
- 125 Mass. 568.
- 137 Mass. 80.
- 139 Mass. 561.
- 144 Mass. 598.
- 146 Mass. 408.
- 152 Mass. 372.
- 157 Mass. 70.
- 167 Mass. 522.
- 163 U. S. 1.
- 179 Mass. 18.
- Amended.
- 1909, 440,
- § 2.
- 1910, 270.

Third, In case of a domestic business corporation, the value of the works, structures, real estate, machinery, poles, underground conduits, wires and pipes owned by it within the commonwealth subject to local taxation, and of securities which if owned by a natural person resident in this commonwealth would not be liable to taxation; also the value of its property situated in another state or country and subject to taxation therein. [but] *There shall not be deducted the value of securities which if owned by a natural person resident in this commonwealth would be liable to taxation; and* the tax commissioner in determining for the purposes of taxation the value of the corporate franchise of any such corporation shall not take into consideration any debts of such corporation unless the returns required from it contain a statement duly signed and sworn to, setting forth that no part of such debts was incurred for the purpose of reducing the amount of taxes to be paid by it.

Fourth, In case of corporations subject to the requirements of the preceding section, other than railroad corporations, telegraph, telephone, street railway and electric railroad companies, whether chartered or organized in this commonwealth or elsewhere, and of domestic business corporations, the value as found by the tax commissioner of their works, structures, real estate, machinery, underground conduits, wires and pipes, subject to local taxation wherever situated.

For the purposes of this section the tax commissioner may take the value at which such works, structures, real estate, machinery, poles, underground conduits, wires and pipes are assessed at the

place where they are located as the true value, but such local assessment shall not be conclusive of the true value thereof.

Corporation to appeal from local valuation, when.
 1865, 283, § 6.
 P. S. 13, § 41.
 1890, 127, § 7.
 1898, 417.
 R. L. 14, § 39.
 1902, 342, § 4.
 1903, 437, § 73.
 Tax to be paid on corporate franchise. Rate, how determined.
 1864, 208, § 5.
 1865, 283, § 5.
 1880, 117, § 2.
 P. S. 13, § 40.
 1885, 233, § 1.
 1886, 270.
 1888, 413, § 24.
 1898, 417.
 R. L. 14, § 40.
 1903, 437, § 74.
 1904, 261, § 1.
 1906, 271, §§ 9, 12;
 463, II., § 214; III., § 123; 516, § 17.
 12 Allen, 75, 298.
 98 Mass. 19, 25.
 99 Mass. 146, 151.
 105 Mass. 527.
 135 Mass. 569.
 137 Mass. 80.
 139 Mass. 561.
 146 Mass. 408.
 157 Mass. 70.
 167 Mass. 522.
 178 Mass. 470.
 179 Mass. 18.
 6 Wallace, 632.
 178 U. S. 120.
 192 Mass. 129.
 195 Mass. 385, 528.

SECTION 42. The tax commissioner may require a corporation to prosecute an appeal from the valuation of its works, structures, real estate, machinery, poles, underground conduits, wires and pipes by the assessors of a city or town, either to the county commissioners or to the superior court, whose decision shall be conclusive upon the question of value. Upon such an appeal the tax commissioner may be heard, and in the superior court costs may be awarded as justice requires.

1906, 463, II., § 213; III., § 127; 516, § 16. 1909, 439, § 3. 178 Mass. 470.

SECTION 43. Every corporation subject to the provisions of section forty shall annually pay a tax upon its corporate franchise, after making the deductions provided for in section forty-one, at a rate equal to the average of the annual rates for three years preceding that in which such assessment is laid, the annual rate to be determined by an apportionment of the whole amount of money to be raised by taxation upon property in the commonwealth during the same year, as returned by the assessors of the several cities and towns under the provisions of section ninety-three of Part I, after deducting therefrom the amount of tax assessed upon polls for the preceding year, as certified to the tax commissioner, upon the aggregate valuation of all cities and towns for the preceding year, as returned under sections fifty-nine and sixty of Part I; but the said tax upon the value of the corporate franchise of a domestic business corporation, after making the deductions provided for in section forty-one, shall not exceed a tax levied at the rate aforesaid upon an amount, less said deductions, twenty per cent in excess of the value, as found by the tax commissioner, of the works, structures, real estate, machinery, underground conduits, wires and pipes, and merchandise, and of securities which if owned by a natural person resident in this commonwealth would be liable to taxation; and the total amount of tax to be paid by such corporation in any year upon its property locally taxed in this commonwealth and upon the value of its corporate franchise shall amount to not less than one tenth of one per cent of the market value of its capital stock at the time of said assessment as found by the tax commissioner. If the return from any city or town is not received prior to the twentieth day of August, the amount raised by taxation in said city or town for the preceding year, as certified to the secretary of the commonwealth, may be adopted for the purpose of this determination.

SECTION 45. If the value of the works, structures, real estate, machinery and poles, underground conduits, wires and pipes of a corporation subject to local taxation within the commonwealth, as determined by the tax commissioner, is less than the value thereof as determined by the assessors of the place where it is situated, he shall give notice of his determination to such corporation; and, unless within one month after the date of such notice it applies to said assessors for an abatement, and, upon their refusal to grant an abatement, prosecutes an appeal under the provisions of section seventy-six of Part I, giving notice thereof to the tax commissioner, the valuation of said commissioner shall be conclusive upon said corporation.

Remedy of corporation when assessor's valuation of real estate exceeds tax commissioner's.
 1865, 283, § 6.
 P. S. 13, § 41.
 1898, 417.
 R. L. 14, § 42.
 1902, 342, § 5.
 1903, 437, § 76.
 1904, 442.
 1906, 463, II., § 215; III., § 129; 516, § 19.
 1909, 439, § 4.

137 Mass. 81.
 146 Mass. 403.

152 Mass. 384.
 167 Mass. 522.

178 Mass. 471.
 185 Mass. 117.

Acts of 1909, Chapter 514, §§ 17, 18, 19, 25, 26, 27, 28, 29, 33, 34, 35, 36, 45, 52, 78, 79, 80, 81, 82, 83, 84, 85, 91, 92, 93, 94, 96, 97, 98, 99, 100, 103, 104, 112, 113, 120, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 144.

(In effect Oct. 1, 1909.)

GENERAL PROVISIONS.

SECTION 17. The following words and phrases as used in all laws relative to the employment of labor shall, unless a different meaning is plainly required by the context, have the following meanings:—

Definitions.
 R. L. 106, § 8.

“Child” or “Minor” shall mean a person under eighteen years of age.

“Factory” shall mean any premises where steam, water or other mechanical power is used in aid of any manufacturing process there carried on.

“Manufacturing establishments” shall mean any premises, room or place used for the purpose of making, altering, repairing, ornamenting, finishing or adapting for sale any article or part of an article.

“Mechanical establishments” shall mean any premises, other than a factory as above defined, in which machinery is employed in connection with any work or process carried on therein.

“Person” shall mean an individual, corporation, partnership, company or association.

“Public building” shall mean any building or premises used as a public or private institution, church, theatre, public hall, place of public entertainment, resort or assemblage.

“School house” shall mean any building or premises in which public or private instruction is afforded to not less than ten pupils at one time.

“Woman” shall mean a woman eighteen years of age or over.

“Workshop” shall mean any premises, room or place, which is not a factory as above defined, wherein manual labor is exercised by way of trade or for purposes of gain in or incidental to a process of making, altering, repairing, ornamenting, finishing or adapting for sale any article or part of an article, and to which or over which premises, room or place the employer of the persons working therein has the right of access or control; but the exercise of such manual labor in a private house or private room by the family dwelling therein or by any of them or if a majority of the persons therein employed are members of such family, shall not of itself constitute such house or room a workshop within this definition.

“Young person” shall mean a person of the age of fourteen years and under the age of eighteen years.

SECTION 18. No person shall, by intimidation or force, prevent or seek to prevent a person from entering into or continuing in the employment of any person or corporation.

SECTION 19. No person shall, himself or by his agent, coerce or compel a person into a written or oral agreement not to join or become a member of a labor organization as a condition of his securing employment or continuing in the employment of such person.

SECTION 25. No railroad, street railway, electric light, gas, telegraph, telephone, water or steamboat company shall appoint, promote, reinstate, suspend or discharge any person employed or seeking employment by any such company at the request of the governor, lieutenant governor, or any member or member elect of the council or of the general court, or candidate therefor, justice of the supreme judicial court, justice of the superior court, judge of probate, justice of a police, district or municipal court, district attorney, member or member elect of a board of county commissioners, or candidate for county commissioner, member or member elect of a board of aldermen, or selectmen, or city council, or any executive, administrative or judicial officer, clerk or employee of any branch of the government of the commonwealth or of any county, city or town; nor shall any such public officer or body, or any member or member elect thereof or candidate therefor, directly or indirectly advocate, oppose, or otherwise interfere in, or make any request, recommendation, endorsement, requirement or certificate relative to, and the same, if made, shall not be required as a condition precedent to, or be in any way regarded or permitted to influence or control, the appointment, promotion,

Intimidation
of employees
prohibited.
R. L. 106,
§ 11.

Membership
in labor
unions not to
be forbidden.
R. L. 106,
§ 12.

Employment
by public
service cor-
porations
restricted.
1903, 320,
§§ 1, 3.

reinstatement or retention of any person employed or seeking employment by any such corporation, and no such person shall solicit, obtain, exhibit, or otherwise make use of any such official request, recommendation, certificate or endorsement in connection with any existing or desired employment by a public service corporation. Any person or corporation violating the provisions of this section shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars for each offence.

SECTION 26. The offices of probation officer, notary public and justice of the peace, prison officer, agent of the prison commissioners and agent of the state board of charity shall not be considered public offices within the meaning of the preceding section.

Public offices defined.
1903, 320,
§ 2.
1908, 228.

SECTION 27. Whoever knowingly causes to be printed or published a false or fraudulent notice or advertisement for help or for obtaining work or employment shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than three months or by both such fine and imprisonment.

Fraudulent advertisements concerning employment.
1908, 217.

SECTION 28. Whoever corruptly gives, offers or promises to an agent, employee or servant, any gift or gratuity whatever with intent to influence his action in relation to the business of his principal, employer or master; or an agent, employee or servant who corruptly requests or accepts a gift or gratuity or a promise to make a gift or to do an act beneficial to himself, under an agreement or with an understanding that he shall act in any particular manner in relation to the business of his principal, employer or master; or an agent, employee or servant, who, being authorized to procure materials, supplies or other articles either by purchase or contract for his principal, employer or master, or to employ service or labor for his principal, employer, or master, receives directly or indirectly, for himself or for another, a commission, discount or bonus from the person who makes such sale or contract, or furnishes such materials, supplies or other articles, or from a person who renders such service or labor; and any person who gives or offers such an agent, employee or servant such commission, discount or bonus, shall be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by such fine and by imprisonment for not more than one year.

Corrupt influencing of agents or servants prohibited.
1904, 343,
§ 1.

SECTION 29. No person shall be excused from attending, testifying or producing books, papers, contracts, agreements and documents before any court or in obedience to the subpoena of any court having jurisdiction of the offence described in the preceding section on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him

Self-incriminating testimony not privileged.
1904, 343,
§ 2.

may tend to criminate him or subject him to a penalty or forfeiture. But no person shall be liable to any suit or prosecution, civil or criminal, for or on account of any transaction, matter or thing concerning which he may testify or produce evidence, documentary or otherwise, before said court or in obedience to its subpoena or in any such case or proceedings.

Use of bells
and whistles.
R. L. 106, § 9.

SECTION 33. Manufacturers and others who employ workmen may, for the purpose of giving notice to them, ring bells and use whistles and gongs of such size and weight and in such manner and at such hours as the board of aldermen of cities and the selectmen of towns may designate in writing.

Non-resident
special police
officers to be
employees,
when.
R. L. 108,
§ 11.

SECTION 34. If, in an emergency, special police officers are appointed under the name of police officers or any other name, to act as police officers for quelling a riot or disturbance or for protecting property no person shall be so appointed who is not a resident of this commonwealth unless he is a regular employee of the person or corporation whose property he is so appointed to protect.

Police protec-
tion author-
ized and
regulated.
R. L. 108,
§ 12.

SECTION 35. A person or corporation may, at any time, if his or its property is in danger, call upon the regular police authorities in this commonwealth for assistance in its protection, and the provisions of this and the preceding section shall not limit or diminish such rights; but no person or corporation shall request or authorize any person or body of persons not residents of this commonwealth, except regular employees, to assist such corporation with arms in the defence of its property, and no such request or authority shall justify an assault or attack with arms by a non-resident. Whoever, being an employer of labor, requests or authorizes assistance in violation of the provisions of this section and whoever renders such assistance with arms shall be severally liable in damages to each person injured in person or property thereby.

General
penalty.
R. L. 106,
§ 70.

SECTION 36. Whoever violates a provision of this act for which no specific penalty is provided shall be punished by a fine of not more than one hundred dollars.

Employees
to be allowed
time for
voting.
R. L. 11,
§§ 5, 413.
1902, 334.
1904, 334.
1907, 560,
§§ 5, 447.

SECTION 45. No person entitled to vote at an election shall, upon the day of any such election, be employed in any manufacturing, mechanical or mercantile establishment, except such as may lawfully conduct its business on Sunday, during the period of two hours after the opening of the polls in the voting precinct or town in which he is entitled to vote, if he shall make application for leave of absence during such period. An owner, superintendent or overseer in any manufacturing, mechanical or mercantile establishment, except such as may lawfully conduct

its business on Sunday, who employs or permits to be employed therein any person entitled to vote at a state election, during the period of two hours after the opening of the polls in the voting precinct or town in which such person is entitled to vote, if he shall make application for leave of absence during such period, shall be punished by a fine of not more than one hundred dollars.

SECTION 52. Except in cases of emergency or except at the request of the employee, it shall not be lawful for any person, partnership, association or corporation to require an employee engaged in any commercial occupation, or in the work of any industrial process, or in the work of transportation or communication, to do on the Lord's day the usual work of his occupation, unless such employee is allowed during the six days next ensuing twenty-four consecutive hours without labor. But the provisions of this section shall not be construed as authorizing any work on the Lord's day not now authorized by law; nor as applying to farm or personal services, to druggists, to watchmen, to superintendents or managers, to janitors, or to persons engaged in the transportation, sale or delivery of milk, food or newspapers. Whoever violates the provisions of this section shall be punished by a fine of not more than fifty dollars for each offence.

Employees to have one day's rest in seven.
1907, 577.

SANITARY AND PROTECTIVE PROVISIONS.

SECTION 78. All manufacturing establishments within this commonwealth shall provide fresh and pure drinking water to which their employees shall have access during working hours. Any person, firm, association or corporation owning, in whole or in part, managing, controlling or superintending any manufacturing establishment in which the provisions of this section are violated shall, upon complaint of the state inspectors of health, of the board of health of the city or town, or of the selectmen of the town in which the establishment is located be punished by a fine of one hundred dollars for each offence.

Drinking water to be provided for employees.
1902, 322.
1907, 537,
§ 5.

SECTION 79. Every factory in which five or more persons are employed, and every factory, workshop, mercantile or other establishment or office in which two or more children or women are employed, shall be kept clean and free from effluvia arising from any drain, privy or nuisance, and shall be provided, within reasonable access, with a sufficient number of proper water closets, earth closets or privies; and wherever two or more males and two or more females are employed together, a sufficient number of separate water closets, earth closets or privies shall be

Sanitary provisions for factories, workshops, etc.
R. L. 106,
§ 47.

provided for the use of each sex, and plainly so designated; and no person shall be allowed to use a closet or privy which is provided for persons of the other sex.

Occupant
may recover
expense of
changes.
R. L. 106,
§ 48.

SECTION 80. The owner, lessee or occupant of any premises which are used as described in the preceding section shall make the changes necessary to conform thereto. If such changes are made upon the order of the inspection department of the district police, by the occupant or lessee of the premises, he may, within thirty days after the completion thereof bring an action against any other person who has an interest in such premises, and may recover such proportion of the expense of making such changes as the court adjudges should justly and equitably be borne by the defendant.

Notice of
defective
sanitary ar-
rangements.
R. L. 106,
§ 48.

SECTION 81. If it appears to a state inspector of health that any act, neglect or fault in relation to any drain, water closet, earth closet, privy, ashpit, water supply, nuisance or other matter in a factory or workshop included under the provisions of section seventy-nine, is punishable or remediable under the provisions of chapter seventy-five of the Revised Laws or any other law relative to the preservation of the public health, but not under the provisions of this chapter, he shall give notice in writing thereof to the board of health of the city or town in which such factory or workshop is situated, and such board of health shall thereupon inquire into the subject of the notice and enforce the laws relative thereto.

Prerequisites
to criminal
prosecution.
R. L. 106,
§ 50.

SECTION 82. A criminal prosecution shall not be instituted against a person for a violation of the provisions of sections seventy-nine and eighty until four weeks after notice in writing by the inspection department of the district police of the changes necessary to be made to comply with the provisions of said sections has been sent by mail or delivered to such person, nor if such changes shall have been made in accordance with such notice. A notice shall be sufficient under the provisions of this section if given to one member of a firm, or to the clerk, cashier, secretary, agent or any other officer who has charge of the business of a corporation, or to its attorney; and in case of a foreign corporation, to the officer who has the charge of such factory or workshop; and such officer shall be personally liable for the amount of any fine if a judgment against the corporation is returned unsatisfied.

Ventilation
of factories,
etc.
R. L. 106,
§ 51.

SECTION 83. A factory in which five or more persons and a workshop in which five or more women or young persons are employed shall, while work is carried on therein, be so ventilated

that the air shall not become so impure as to be injurious to the health of the persons employed therein and so that all gases, vapors, dust or other impurities injurious to health, which are generated in the course of the manufacturing process or handicraft carried on therein shall, so far as practicable, be rendered harmless.

SECTION 84. If, in a workshop, or factory which is within the provisions of the preceding section, any process is carried on by which dust is caused which may be inhaled to an injurious extent by the persons employed therein, and it appears to a state inspector of health that such inhalation would be substantially diminished without unreasonable expense by the use of a fan or by other mechanical means, such fan or other mechanical means, if he so directs, shall be provided, maintained and used.

Health inspectors to enforce ventilation.
R. L. 106,
§ 52.

SECTION 85. A criminal prosecution shall not be instituted for any violation of the provisions of the two preceding sections unless such employer neglects, for four weeks after the receipt of a notice in writing, to make such changes in his factory or workshop as shall be ordered by a state inspector of health.

Prerequisites to criminal prosecution.
R. L. 106, § 53.

SECTION 91. In every manufacturing establishment in which the machinery is propelled by steam, communication shall be provided between each room in which such machinery is placed and the room in which the engineer is stationed by means of speaking tubes, electric bells or appliances to control the motive power, or such other means as shall be satisfactory to the inspectors of factories and public buildings, if in the opinion of the inspectors such communication is necessary. Whoever, being the occupant or controlling the use of any such manufacturing establishment, violates the provisions of this section shall forfeit to the commonwealth not less than twenty-five nor more than one hundred dollars.

Communication with engineer's room.
R. L. 104,
§ 38.

SECTION 92. No prosecution for a violation of the provisions of the preceding section shall be commenced until four weeks after notice in writing by an inspector has been sent by mail to such person, firm or corporation of any changes necessary to be made to comply with the provisions of said section, nor if such changes shall have been made in accordance with such notice.

Commencement of prosecutions.
R. L. 104,
§ 39.

SECTION 93. No outside or inside doors of any building in which operatives are employed shall be so locked, bolted or otherwise fastened during the hours of labor as to prevent free egress. The owner, lessee or occupant of any such building shall, five days after receiving notice in writing from an inspector of factories and public buildings, comply with the provisions of this section.

Doors not to be locked during hours of labor.
R. L. 104,
§ 40.

Belting, etc.,
in factories,
to be guarded.
R. L. 104,
§ 41.
1907, 503, § 2;
537, § 5.

SECTION 94. The belting, shafting, gearing and drums of all factories, if so placed as, in the opinion of the inspectors of factories and public buildings, to be dangerous to employees therein while engaged in their ordinary duties, shall be as far as practicable securely guarded. No machinery except steam engines in a factory shall be cleaned while running if objection in writing is made by one of said inspectors. All factories and workshops shall be well lighted, well ventilated and kept clean, and this requirement shall be enforced by the state inspectors of health.

Hatchways,
etc., to be
protected.
R. L. 104,
§§ 43, 108.

SECTION 96. The openings of hoistways, hatchways, elevators and well holes upon every floor of a factory or mercantile or public building shall be protected by sufficient trap doors or self-closing hatches and safety catches, or such other safeguards as the inspectors of factories and public buildings direct; and due diligence shall be used to keep such trap doors closed at all times, except when in actual use by the occupant of the building who has the use and control of the same.

Temporary
flooring
during con-
struction.
R. L. 104,
§ 44.

SECTION 97. If, in the erection of an iron or steel framed building the spaces between the girders or floor beams of any floor are not filled or covered by the permanent construction of said floors before another story is added to the building, a close plank flooring shall be placed and maintained over such spaces, from the time when the beams or girders are placed in position until said permanent construction is applied; but openings, protected by a strong hand railing not less than four feet high, may be left through said floors for the passage of workmen or material.

Same subject.
R. L. 104,
§ 45.

SECTION 98. In the construction of any iron or steel framed building having a clear story of twenty-five feet elevation or more, a staging with a close plank flooring shall be placed under the whole extent of the beams, girders or trusses of such story upon which iron or steel workers are working, and not more than ten feet below the under side of such beams, girders and trusses.

Enforcement
of laws and
penalty.
R. L. 104,
§ 46.

SECTION 99. Inspectors of factories and public buildings shall enforce the provisions of the two preceding sections, and whoever violates any provision thereof shall be punished by a fine of not less than fifty nor more than five hundred dollars for each offence.

Use of
explosives
regulated.
R. L. 104,
§ 47.

SECTION 100. Explosive or inflammable compounds shall not be used in any factory in such place or manner as to obstruct or render hazardous the egress of operatives in case of fire.

Appliances
for ex-
pectoration.
1907, 503,
§ 2.

SECTION 103. Suitable receptacles for expectoration shall be provided in all factories and workshops by the proprietors thereof, the same to be of such form and construction and of

such number as shall be satisfactory to the board of health of the city or town in which the factory or workshop is situated.

SECTION 104. Every person, firm or corporation operating a factory or shop in which machinery is used for any manufacturing or other purpose except for elevators, or for heating or hoisting apparatus, shall at all times keep and maintain, free of expense to the employees, such a medical and surgical chest as shall be required by the board of health of the city or town where such machinery is used, containing plasters, bandages, absorbent cotton, gauze, and all other necessary medicines, instruments and other appliances for the treatment of persons injured or taken ill upon the premises. A person, firm or corporation violating any provision of this section shall be punished by a fine of not less than five dollars nor more than five hundred dollars for every week during which such violation continues.

Surgical
appliances
for employees.
1907, 164.

PAYMENT OF WAGES.

SECTION 112. Every manufacturing, mining, or quarrying, mercantile, railroad, street railway, telegraph or telephone corporation, every incorporated express company or water company, and every contractor, person or partnership engaged in any manufacturing business, in any of the building trades, in quarries or mines, upon public works or in the construction or repair of railroads, street railways, roads, bridges or sewers, or of gas, water or electric light works, pipes or lines, shall pay weekly each employee engaged in his or its business the wages earned by him to within six days of the date of said payment, but any employee leaving his or her employment, [or being discharged from such employment] shall be paid in full on the following regular pay day *and any employee discharged from such employment shall be paid in full on the day of his discharge, or in the city of Boston as soon as the provisions of law requiring pay rolls, bills and accounts to be certified shall have been complied with;* and the commonwealth, its officers, boards and commissions shall so pay every mechanic, workman and laborer who is employed by it or them, and every person employed by it or them in any penal or charitable institution, and every county and city shall so pay every employee who is engaged in its business the wages or salary earned by him, unless such mechanic, workman, laborer or employee requests in writing to be paid in a different manner; and every town shall so pay each employee in its business if so required by him; but an employee who is absent from his regular place of labor at a time fixed for payment shall be

Weekly
payment
of wages.
R. L. 106,
§ 62.
1902, 450.
1906, 427.
1907, 193.
1908, 650.
163 Mass. 589.
170 Mass. 140.
172 Mass. 230.
195 Mass. 548.
Amended.
1910, 350.

paid thereafter on demand. The provisions of this section shall not apply to an employee of a co-operative corporation or association if he is a stockholder therein unless he requests such corporation to pay him weekly. The board of railroad commissioners, after a hearing, may exempt any railroad corporation from paying weekly any of its employees if it appears to the board that such employees prefer less frequent payments, and that their interests and the interests of the public will not suffer thereby. No corporation, contractor, person or partnership shall by a special contract with an employee or by any other means exempt himself or itself from the provisions of this and the following section. Whoever violates the provisions of this section shall be punished by a fine of not less than ten nor more than fifty dollars.

Chief of police to prosecute violations of preceding section.
R. L. 106,
§ 63.

SECTION 113. The chief of the district police or an inspector of factories and public buildings may make a complaint against any person for a violation of the provisions of the preceding section. Complaints for such violation shall be made within thirty days after the date thereof, and, on the trial, no defence for failure to pay as required, other than the attachment of such wages by the trustee process or a valid assignment thereof or a valid set-off against the same, or the absence of the employee from his regular place of labor at the time of payment, or an actual tender to such employee at the time of payment of the wages so earned by him, shall be valid. The defendant shall not set up as a defence a payment of wages after the bringing of the complaint. An assignment of future wages which are payable weekly under the provisions of this act shall not be valid if made to the person from whom such wages are to become due or to any person on his behalf or if made or procured to be made to another person for the purpose of relieving the employer from the obligation to pay weekly. The word "person" in this section shall include the corporations, contractors, persons and partnerships described in the preceding section.

Penalty for discharge of employee without notice.
R. L. 106,
§ 10.

SECTION 120. A person who being engaged in manufacturing requires from his employees, under penalty of forfeiture of a part of the wages earned by them, a notice of intention to leave such employ shall be liable to a like forfeiture, if, without similar notice, he discharges an employee.

LIABILITY OF EMPLOYERS TO EMPLOYEES.

Liability of employer to employee.
R. L. 106,
§ 71.
1908, 420.

SECTION 127. If personal injury is caused to an employee, who, at the time of the injury, is in the exercise of due care by reason of:

First, A defect in the condition of the ways, works or machinery connected with or used in the business of the employer, which arose from, or had not been discovered or remedied in consequence of, the negligence of the employer or of a person in his service who had been entrusted by him with the duty of seeing that the ways, works or machinery were in proper condition; or,

Second, The negligence of a person in the service of the employer who was entrusted with and was exercising superintendence and whose sole or principal duty was that of superintendence, or, in the absence of such superintendent, of a person acting as superintendent with the authority or consent of such employer; or,

The employee, or his legal representatives, shall, subject to the provisions of the nine following sections, have the same rights to compensation and of action against the employer as if he had not been an employee, nor in the service, nor engaged in the work, of the employer.

SECTION 128. If the injury described in the preceding section results in the death of the employee, and such death is not instantaneous or is preceded by conscious suffering, and if there is any person who would have been entitled to bring an action under the provisions of the following section, the legal representatives of said employee may, in the action brought under the provisions of the preceding section, recover damages for the death in addition to those for the injury; and in the same action under a separate count at common law, may recover damages for conscious suffering resulting from the same injury.

Action if injury followed by death not instantaneous or death with conscious suffering.
R. L. 106, § 72.
1906, 370.

SECTION 129. If, as the result of the negligence of an employer himself, or of a person for whose negligence an employer is liable under the provisions of section one hundred and twenty-seven, an employee is instantly killed, or dies without conscious suffering, his widow or, if he leaves no widow, his next of kin, who, at the time of his death, were dependent upon his wages for support, shall have a right of action for damages against the employer.

Action if injury followed by instantaneous death without conscious suffering.
R. L. 106, § 73.
1908, 457.

SECTION 130. If an action is brought under the provisions of the preceding section by the widow of the employee, or by the next of kin, who may have such right of action, or if the action is brought under the provisions of section one hundred and twenty-seven by the legal representatives, such action shall not fail by reason of the fact that it should have been brought under the

Amendment of actions brought under preceding sections.
1908, 457.

other section, but may be so amended as to provide against such failure at any time prior to final judgment.

Damages.
R. L. 106,
§ 74.

SECTION 131. If under the provisions of section one hundred and twenty-eight and one hundred and twenty-nine damages are awarded for the death, they shall be assessed with reference to the degree of culpability of the employer or of the person for whose negligence the employer is liable.

The amount of damages which may be awarded in an action under the provisions of section one hundred and twenty-seven for a personal injury to an employee, in which no damages for his death are awarded under the provisions of section one hundred and twenty-eight shall not exceed four thousand dollars.

The amount of damages which may be awarded in such action, if damages for his death are awarded under the provisions of section one hundred and twenty-eight shall not exceed five thousand dollars for both the injury and the death, and shall be apportioned by the jury between the legal representatives of the employee and the persons who would have been entitled under the provisions of section one hundred and twenty-nine to bring an action for his death if it had been instantaneous or without conscious suffering.

The amount of damages which may be awarded in an action brought under the provisions of section one hundred and twenty-nine shall not be less than five hundred nor more than five thousand dollars.

Notice.
R. L. 106,
§ 75.
Amended.
1910, 166,
§ 2.

SECTION 132. No action for the recovery of damages for injury or death under the provisions of the five preceding sections shall be maintained unless notice of the time, place and cause of the injury is given to the employer within sixty days, and the action is commenced within one year, after the accident which causes the injury or death. Such notice shall be in writing, signed by the person injured or by a person in his behalf. [; but] *If the person injured dies within the time required for giving the notice his executor or administrator may give such notice within sixty days after his appointment.* If from physical or mental incapacity it is impossible for the person injured to give the notice within the time provided in this section, he may give it within ten days after such incapacity has been removed, and if he dies [without having given notice and without having been for ten days at any time after his injury of sufficient capacity to give it] *within said ten days* his executor or administrator may give such notice within sixty days after his appointment. A notice given under the provisions of this section shall not be held invalid

or insufficient solely by reason of an inaccuracy in stating the time, place or cause of the injury if it is shown that there was no intention to mislead, and that the employer was not in fact misled thereby.

SECTION 133. If an employer enters into a contract, written or verbal, with an independent contractor to do a part of such employer's work, or if such contractor enters into a contract with a sub-contractor to do all or any part of the work comprised in such contractor's work with the employer, such contract or sub-contract shall not bar the liability of the employer for injuries to the employees of such contractor or sub-contractor caused by any defect in the condition of the ways, works, machinery or plant, if they are the property of the employer or are furnished by him and if such defect arose, or had not been discovered or remedied, through the negligence of the employer or of some person entrusted by him with the duty of seeing that they were in proper condition.

Liability of an employer to the employee of a contractor or subcontractor.
R. L. 106,
§ 76.

SECTION 134. An employee or his legal representatives shall not be entitled under the provisions of sections one hundred and twenty-seven to one hundred and thirty-one, inclusive, to any right of action for damages to his employer if such employee knew of the defect or negligence which caused the injury, and failed within a reasonable time to give, or cause to be given, information thereof to the employer, or to some person superior to himself in the service of the employer who was entrusted with general superintendence.

Employer not liable, when.
R. L. 106,
§ 77.

SECTION 135. An employer who shall have contributed to an insurance fund created and maintained for the mutual purpose of indemnifying an employee for personal injuries for which compensation may be recovered under the provisions of sections one hundred and twenty-seven to one hundred and thirty-one, inclusive, of this act or to any relief society formed under the provisions of sections seventeen, eighteen and nineteen of chapter one hundred and twenty-five of the Revised Laws, or under the provisions of sections forty-six, forty-seven and forty-eight of Part I of chapter four hundred and sixty-three of the acts of the year nineteen hundred and six, may prove in mitigation of the damages recoverable by an employee under the provisions of said sections, such proportion of the pecuniary benefit which has been received by such employee from any such fund or society on account of such contribution of said employer as the contribution of such employer to such fund or society bears to the whole contribution thereto.

Evidence in reduction of damages.
R. L. 106,
§ 78.

Plans of compensation for injured employees. 1908, 489, §§ 1, 2.

SECTION 136. An employer of labor may submit to the state board of conciliation and arbitration a plan of compensation for employees in his employ, providing for payments to them in the event of injury in the course of their employment, based upon a certain percentage of their average earnings, and without reference to legal liability under the common law of the employers' liability act. After examination of such plan of compensation, and a public hearing thereon after public notice thereof, said board may, if it considers the plan fair and just to the employee, give its approval thereof by its certificate attached thereto; and, thereafter, the employer may enter into a contract with his employees by which they shall release him from liability in case of injury in the course of said employment and accept in lieu thereof the compensation provided in said plan.

Form of agreement and method of signing. 1908, 489, § 3.

SECTION 137. Either parent or the guardian of any minor employee may agree to said plan of compensation in behalf of the minor. Such agreement shall be in writing signed by the employee, or, in the case of a minor employee, by either parent or the guardian, in the presence of two witnesses, of whom one shall be an employee at the time of such signature.

Agreement to plan to be voluntary. Duration. 1908, 489, §§ 4, 5.

SECTION 138. No employer shall require as a condition of employment that any employee shall assent to any plan of compensation or in any way waive his legal right to recover damages for an injury outside the provisions of such plan, and no contract under such plan of compensation shall be binding for more than one year from the date thereof.

Employees, certain, to submit to board of conciliation, etc., a plan of compensation, etc. 1908, 489, 1909, 211.

SECTION 139. The employees of any employer of labor, numbering at least ten per cent of those regularly employed during the preceding year, may submit to the state board of conciliation and arbitration a plan of compensation such as is described in section one hundred and thirty-six of this act. Such plan shall be referred to the employer, and in case no agreement between the employer and the employees is reached within thirty days and reported to said board, then after examination of the said plan of compensation, and a public hearing thereon after public notice thereof, the board of conciliation and arbitration may, if it considers the same fair and just to the employer and employees, recommend to the employer, the adoption of the same. Upon notice of acceptance of the plan duly filed by the employer the plan shall be deemed to be in force precisely as if it had been submitted and approved under the provisions of the preceding sections of this act.

SECTION 140. Except as provided in the four preceding sections, no person shall, by a special contract with his employees, exempt himself from liability which he may be under to them for injuries suffered by them in their employment and resulting from the negligence of the employer or of a person in his employ.

Contracts for exemption of employer from liability for injury, forbidden.
R. L. 106, § 16.
1908, 489, § 6.
Protection of interests of employees.
1908, 380.

SECTION 141. A justice of the superior court may, upon petition setting forth in ordinary language that the servant or employee of a certain firm, person, corporation or association has been injured in the course of his employment, through some defect in the ways, works or machinery owned or used by the employer, and that it is necessary in order to protect the interests of the injured person that an examination should be made of the ways, works or machinery through whose defect the injury occurred, and after such notice to the employer as any justice of said court may direct or approve, and a hearing, grant an order directing the employer or person in control of such ways, works or machinery to permit the person named in said order to make such examination, under such conditions as shall be set forth in the order.

SECTION 144. All manufacturers, manufacturing corporations and proprietors of mercantile establishments shall forthwith send to the chief of the district police a written notice of any accident to an employee while at work in any factory, manufacturing or mercantile establishment operated by them, if the accident results in the death of said employee or in such bodily injury as to prevent him from returning to his work within four days thereafter. The chief of the district police shall forthwith transmit to the sender of such notice a written or printed acknowledgment of the receipt thereof, and he shall keep a record of all accidents so reported to him, of the name of the person injured, of the city or town in which the accident occurred and the cause thereof, and shall include an abstract of said record in his annual report. Whoever fails to send notice of an accident as required by this section shall be punished by a fine of not more than twenty dollars.

Report of accidents to employees.
R. L. 106, § 17.

Acts of 1910, Chapter 445.

An Act to Regulate Advertisements and Solicitations for Employees during Strikes, Lockouts or Other Labor Disputes.

SECTION 1. If an employer, during the continuance of a strike among his employees, or during the continuance of a lockout or other labor trouble among his employees, publicly advertises in newspapers, or by posters or otherwise, for employees, or by

Advertisement for employees during strikes, etc.

himself or his agents solicits persons to work for him to fill the places of strikers he shall plainly and explicitly mention in such advertisements or oral or written solicitations that a strike, lock-out or other labor disturbance exists.

Penalty.

SECTION 2. If any person, firm, association or corporation violates any provision of this act, he or it shall be punished by a fine not exceeding one hundred dollars for each offence. [*Approved April 25, 1910.*]

Acts of 1910, Chapter 559.

An Act to authorize Employers and Employees to Establish Co-operative Retirement, Annuity or Pension Systems.

Employers and employees may establish co-operative retirement systems, etc.

SECTION 1. Employees, officers and agents of any corporation, firm or individual, and the corporation, firm or individual by which they are employed, are hereby authorized to form an association for the purpose of providing annuities, pensions or endowments for employees retiring from their employment on account of age, under a system by which the participating employees contribute to the funds of the association a percentage or portion of their salaries or wages as fixed by the by-laws of the association, to be deducted by the employer and paid to the association, and the employer contributes to the funds of the association in the manner and to the extent fixed in said by-laws. The funds so provided shall be held by trustees independently of other funds of the employer, for the purchase or payment of annuities, pensions or endowments to participating employees upon their retirement from service on account of age, for the payments to the representatives or appointees of any participator dying before reaching the age of retirement, for the payment to any participator retiring from service before becoming entitled to a pension or annuity and for the payment of the expenses of administration. An association formed under the authority of this act shall not be subject to the provisions of chapter five hundred and seventy-six of the acts of the year nineteen hundred and seven, or to such other provisions of law as relate to insurance companies or associations, except as herein provided.

By-law to be approved by the insurance commissioner, etc.

SECTION 2. The by-laws of every such association shall be approved by the insurance commissioner, and shall prescribe the manner in which and the officers and agents by whom the purpose of the association may be carried out and the manner in which its funds may be invested and paid out. Such association shall be deemed to be formed when its by-laws have been approved and agreed to by the employer and by the employees by vote of

two thirds of all employees present and voting at a meeting called by the employer for the purpose, and have been approved by said commissioner. Such association shall annually, on or before the first day of February, report to the insurance commissioner such statements of its membership and financial transactions for the year ending on the preceding thirty-first day of December as the commissioner may consider necessary to show its business and standing. Said commissioner may verify such statement by an examination of the books and papers of the association; and whoever, having charge or custody of said books and papers, neglects to comply with the provisions of this section shall be punished by a fine of not more than five hundred dollars.

Annual report.

SECTION 3. The property of every such association, and the portion of the wages or salary of an employee deducted or to be deducted under this act, the right of an employee to an annuity, pension or endowment, and all his rights in the funds of the association, shall be exempt from taxation and from the operation of any law relating to bankruptcy or insolvency, and shall not be liable to attachment by trustee process or be liable to be taken on execution or on any other process legal or equitable to satisfy any debt or liability of the employer or of any member of the association.

Exempt from taxation, etc.

SECTION 4. This act shall take effect upon its passage. [*Approved May 26, 1910.*]

Acts of 1907, Chapter 581, §§ 3, 4, 5.

An Act to prohibit the Publication of Unsigned Political Advertisements and the making by certain Corporations, of Political Contributions.

SECTION 3. No corporation carrying on the business of a bank, trust, surety, indemnity, safe deposit, insurance, railroad, street railway, telegraph, telephone, gas, electric light, heat, power, canal, aqueduct, or water company, or any company having the right to take or condemn land or to exercise franchises in public ways granted by the Commonwealth or by any county, city or town, and no trustee or trustees owning or holding the majority of the stock of such a corporation, shall pay or contribute in order to aid, promote, or prevent the nomination or election of any person to public office, or in order to aid, promote or antagonize the interests of any political party, or to influence or affect the vote on any question submitted to the voters. No person shall solicit or receive such payment or contribution from such corporation or such holders of stock.

Certain corporations prohibited from making political contributions, etc. See 1908, 483.

Penalty.

SECTION 4. Any corporation which violates any provision of this act shall be punished by a fine of not more than ten thousand dollars, and any officer, director or agent of a corporation violating any provision of this act, who authorized such violation, or any person who violates, or in any way knowingly aids or abets the violation of, any provision of this act, shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year.

When to take effect.

SECTION 5. This act shall take effect on the first day of October in the year nineteen hundred and seven. [Approved June 28, 1907.]

Revised Laws, Chapter 57, §§ 86 to 93 inclusive.

Sale of coke and charcoal. 1901, 423, § 1. Substitute. 1908, 205, § 1.

[SECTION 86. Coke in quantities of less than one hundred pounds, and charcoal in any quantities, shall be sold only by baskets or in bags, and when sold by baskets shall be kept, until delivered, in the same baskets in which the goods are measured. Coke sold in quantities of one hundred pounds or more shall be sold only by baskets or by weight.]

Sale of coke and charcoal. 1908, 205, § 1.

Section 86. Coke in quantities of less than one hundred pounds, and charcoal in any quantities, shall be sold by weight or by measure, and shall be kept until delivered in the same bags or baskets in which the goods are weighed or measured, and coke and charcoal thus sold shall be exempt from the provisions of section eighty-eight of this chapter. When sold by weight, such bags or baskets shall be plainly marked with the name of the person who puts up the same and the weight of the coke or charcoal therein, the words so marked being in solid Roman capital letters, at least one inch in height. Coke sold in quantities of one hundred pounds or more shall be sold only by weight.

Baskets and bags, capacity and sealing. 1901, 423, § 2. Amended. 1908, 205, § 2. 1909, 424, § 1.

SECTION 87. Baskets used in selling coke or charcoal by measure shall be of the capacity of two bushels, of one bushel, or of one half bushel, Massachusetts standard dry measure. They shall be sealed, and their capacity plainly marked thereon by a sealer of weights and measures of the city or town in which the person using them resides or does business, and shall be filled level full. Bags of coke or charcoal, or unpacked kindling wood not exceeding six inches in length sold or offered for sale by measure shall contain, and shall be sold as containing, one half bushel, dry measure, standard aforesaid, of said goods, and shall be plainly marked with the name of the person who puts up the same, and the words in capital letters, each at least one inch in

height, — “ONE HALF BUSHEL,” — *and kindling wood may be sold in bundles not less than twenty-seven inches in circumference: provided, that the wood shall be cut not less than two and one quarter inches long.*

SECTION 88. Whoever sells coke, charcoal or coal by weight shall without cost to the purchaser cause the goods to be weighed by a sworn weigher of the city or town in which they are [sold] weighed and shall cause a certificate stating the name and place of business of the seller, *and either the identifying number, of which a permanent record shall be kept, or, the name of the person taking charge of the goods after the weighing, as given to the weigher on his request, the tare weight and the quantity of the goods, to be signed by the weigher.* Such certificate shall be given to said person and shall by him be given only to the owner of the goods or his agent when he unloads the same; and every such person, owner or agent shall, on request and without charge, therefor, permit any sealer of weights and measures of any city or town to examine the certificate and to make a copy thereof.

Weighing and certificate.
1901, 423,
§ 3.
Amended.
1902, 453,
§ 2.
1908, 304.
1910, 219,
§ 1.

SECTION 89. A sealer of weights and measures of a city or town in which any quantity of coke, charcoal, or coal for delivery is found may, in his discretion, direct the person in charge of the goods to convey the same without delay or charge to scales designated by such sealer, who shall there determine the quantity of the goods, and, if they are not in baskets or bags, shall determine their weight [with the weight of the vehicle in which they are carried], *with the tare weight, and shall direct said person to return to such scales forthwith after unloading the goods; and upon such return, the sealer shall [weigh the vehicle] determine the tare weight. The scales designated by the sealer as aforesaid may be the public scales of the city or town or any other scales therein which have been duly tested and sealed, and shall be such scales as are in his judgment the most convenient of those available.*

Sealer may direct goods to be weighed.
1901, 423,
§ 4.
Amended.
1902, 453,
§ 3.
1910, 219,
§ 2.

SECTION 90. A sealer of weights and measures of a city or town and a sworn weigher shall keep in a book used by him solely for that purpose a record of all baskets sealed by him as aforesaid, and of all weighings and determinations of quantities of coke, charcoal or coal made by him as aforesaid. Such record shall be made at the time of measuring or weighing, and shall state the day and hour of the measuring or weighing, the name and place of business of the seller of the goods, the name of the owner of the baskets or of the purchaser of the goods as given to him on

Record to be kept of weights and measures.
1901, 423,
§ 5.

his request by the person taking charge of the baskets or goods after weighing or measuring, the capacity of the baskets measured or quantity of goods determined, and the name of said person, and, in the case of a re-weighing as aforesaid, shall state the weight as given in the certificate and as determined by him. No charge shall be made by any such sealer for anything done under the provisions of this and the two preceding sections.

SECTION 91. Whoever violates any provision of the seven preceding sections or fails to comply with any request for information or direction made under authority thereof, or gives a false answer to any such request, shall for each offence be punished by a fine of not more than fifty dollars; and whoever shall be guilty of any fraud or deceit relative to the weighing, selling or delivering of coke, charcoal or coal, shall for each offence be punished by a fine of not more than one hundred dollars. *Sealers of weights and measures shall cause the provisions of the seven preceding sections to be enforced in their respective cities and towns.*

Penalty.
1901, 423,
§ 6.
Amended.
1902, 453,
§ 4.

— for having
illegal coal,
etc., measures.
1753-9, 16,
§ 6.
1772-3, 8,
§§ 6-8.
1833, 193, § 2.
R. S. 28,
§ 208.
1852, 302, § 1.
1853, 305, § 3.
1859, 250,
§§ 1, 2.

Seizure of
illegal
measures;
arrest, etc.
1758-9, 16,
§ 7.
1772-3, 8,
§ 8.
1796, 67, § 6.
R. S. 28,
§ 206.
1852, 302, § 2.
1853, 305, § 4.
1859, 250,
§§ 1, 2.
G. S. 49,
§ 194.
P. S. 60, § 88.

SECTION 92. A vendor of coal, coke or charcoal who has in his possession a basket, bag or other measure which does not conform in every particular to the requirements respecting it, with intent to use or permit it to be used in measuring coal, coke or charcoal sold or offered for sale, shall be punished by a fine of not more than twenty dollars, and such basket, bag or measure shall be destroyed.

G. S. 49, § 193.

P. S. 60, § 87.

1883, 218, § 2.

1884, 70.

1894, 429, § 4.

SECTION 93. The mayor and aldermen of a city or the selectmen of a town shall appoint one or more persons whose duty it shall be to seize all baskets, bags or measures used or intended to be used for measuring coal, coke or charcoal, which do not conform to the foregoing provisions, to arrest without warrant any person who has in his possession such baskets, bags or measures and to prosecute him under the provisions of the preceding section. The tribunal by which he is convicted shall order said baskets, bags and measures to be destroyed.

Acts of 1903, Chapter 484.

An Act to provide for Licensing Dealers in Coal and Coke.

Dealers in
coal and
coke to be
licensed.

SECTION 1. It shall be unlawful for any person, firm or corporation to engage in or carry on the business of selling coal or coke, as principal or agent, in any city or town, at wholesale or retail, either by maintaining a place of business or by peddling

the same from house to house, or otherwise, without first obtaining a license so to do from the secretary of the Commonwealth.

[SECTION 2. Such licenses shall be granted by the secretary of the Commonwealth for such periods and upon the payment of such fees, not exceeding five dollars, and upon such conditions and terms as may be prescribed in cities by ordinance and in towns by by-laws.]

Section 2. The said license may be granted by the secretary of the Commonwealth for such period, and upon such conditions and terms as may be prescribed in cities by ordinance and in towns by by-laws, and upon the payment of such fees, not exceeding one dollar for each year of its continuance, as may be prescribed by the secretary.

[SECTION 3. The said licenses may be suspended or revoked at any time by the secretary of the Commonwealth, after a fair hearing given to the licensee, for using false weights and measures, for charging extortionate prices, for conspiring, combining unlawfully with other persons, or unlawfully discriminating in the conduct of said business, or for any other just and sufficient reason.]

Section 3. The said licenses may be suspended or revoked at any time by any justice of the superior court, after due hearing, upon complaint in such form as he may require, for using false weights or measures, for charging exorbitant or excessive prices, for conspiring, combining unlawfully with other persons, or unlawfully discriminating in the conduct of said business, or for any other just and sufficient reason.

[SECTION 4. Any licensee aggrieved by the suspension or revocation of his license may appeal to any justice of the superior court who shall hear the parties as soon as may be, and whose decision sustaining, modifying or annulling the action of the licensing authority shall be final and binding upon all parties. Pending such appeal and a decision thereon the license shall continue in force.]

SECTION 5. It shall be the duty of any licensee as aforesaid to give public notice that he holds the license by displaying the word "License", and the number of his license at his place of business and on all vehicles employed by him in his business and in such other manner as the licensing authority may direct. It shall be unlawful for any such persons, firms or corporations not so licensed to designate themselves as licensed or to use the word "licensed" upon any vehicle or in any place.

Licenses to be issued by the secretary of the Commonwealth.
Repealed.
1906, 434,
§ 1.

Licenses to be issued by the secretary of the Commonwealth.
1906, 434,
§ 1.

Licenses may be suspended or revoked.
Repealed.
1906, 434,
§ 2.

Licenses may be suspended or revoked.
1906, 434,
§ 2.

Licenses aggrieved may appeal to a justice of the superior court, etc.
Repealed.
1906, 434,
§ 3.

— to give public notice, etc.

Penalty.

SECTION 6. Whoever violates any provision of this act shall be punished by fine of not more than fifty dollars or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment. [*Approved June 26, 1903.*]

Revised Laws, Chapter 98, § 3.

Of the Observance of the Lord's Day.

Certain business not prohibited. 1886, 82, 1887, 891, § 2. 1893, 41.

SECTION 3. The provisions of the preceding section shall not be held to prohibit the manufacture and distribution of steam, gas or electricity for illuminating purposes, heat or motive power, . . .

1895, 434, § 2.	145 Mass. 430.	<i>Amended.</i>	<i>Affected.</i>
1900, 440.	149 Mass. 68.	1902, 414.	1909, 423, 577.
1901, 80.	176 Mass. 5, 104.	1908, 126, 273.	1910, 514, § 52.

Acts of 1909, Chapter 420.

An Act relative to the Performance of Work on the Lord's Day.

Certain work may be performed on the Lord's Day.

SECTION 1. The police commissioner of the city of Boston, or any member of the police department having a rank not lower than that of captain and designated by said commissioner, or the chief of police of any other city or of any town, upon such terms and conditions as he deems reasonable may issue a permit for the performance on the Lord's day of necessary work or labor which, in his judgment, could not be performed on any other day without serious suffering, loss, damage, or public inconvenience. Such permit shall cover not more than one day and shall be issued not more than six days prior to the day for which it is issued.

Certain provisions of law not to apply.

SECTION 2. The provisions of section two of chapter ninety-eight of the Revised Laws shall not apply to any person working under, and complying with, the provisions of a permit granted as aforesaid.

SECTION 3. This act shall take effect upon its passage. [*Approved May 21, 1909.*]

CHAPTER 34.

OF THE MANUFACTURE AND DISTRIBUTION OF GAS AND ELECTRICITY BY CITIES AND TOWNS.

SECTION 1. A city or town may, in accordance with the provisions of this chapter, construct, purchase or lease, and maintain within its limits, one or more plants for the manufacture or distribution of gas or electricity for furnishing light for municipal use, or light, heat or power, except for the operation of electric cars, for the use of its inhabitants. Such plants may include suitable land, structures and machinery and other apparatus and appliances for manufacturing, using and distributing gas or electricity for said purposes.

Cities and towns may manufacture, etc., gas and electricity.
1891, 370, § 1.
1894, 533.
150 Mass. 592.
153 Mass. 129.
155 Mass. 601, 605.
163 Mass. 346.
See as to street railways, 1906, 463, III., § 158.

SECTION 2. A city shall not acquire such a plant until it has been so authorized by a vote of two-thirds of each branch of its city council passed in each of two consecutive municipal years and thereafter ratified by a majority of the voters at an annual or special city election. If such a vote is not ratified, no similar vote shall be submitted for ratification within one year thereafter. Such vote of the city council shall be subject to the approval or veto of the mayor.

Vote under this chapter in cities.
1891, 370, § 2.
1893, 454, § 7.
1894, 432, 448.

SECTION 3. A town shall not acquire such a plant until it has been so authorized by a vote of two-thirds of the voters, taken by ballot with the use of the voting list, at each of two town meetings called for the purpose and held at intervals of not less than two nor more than thirteen months. If such vote fails of passage at the second meeting no similar vote shall be passed within two years thereafter.

— in towns.
1891, 370, § 3.
163 Mass. 346.

SECTION 4. After a city or town has voted under the provisions of the two preceding sections, the city or town clerk shall forthwith transmit to the board of gas and electric light commissioners a certified copy of so much of the records of the city council or of the town as relates to the result of the vote.

Certification of vote of acceptance.
1892, 259, § 1.

SECTION 5. If a city or town which has authorized the acquisition of such a plant subsequently votes to establish, purchase, reconstruct, extend or enlarge a plant, or to issue bonds on account of the same, or to regulate the management or conduct thereof, or to adopt an ordinance or by-law relative to such plant, the city or town clerk shall,

— of subsequent votes and ordinances.
1892, 259, § 2.

within ten days after such vote, transmit to the board of gas and electric light commissioners a certified copy thereof.

SECTION 6. A city or town clerk who fails or neglects to comply with the provisions of the two preceding sections shall, for each offence, forfeit not more than twenty-five dollars.

Penalty.
1892, 259,
§ 4.

Acts of 1906, Chapter 463, Part III., §§ 59, 60, 61, 62, 63, 155, 160.

Cities and towns not to manufacture or distribute electricity for operation of cars.

SECTION 59. A city or a town shall not manufacture or distribute electricity for furnishing light, heat or power for the operation of the cars of a street railway company.

1891, 370, § 1. R. L. 34, § 1. 153 Mass. 129. 163 Mass. 346.
1894, 533. 150 Mass. 592. 155 Mass. 601, 605.

Certain towns may purchase electricity for lighting purposes from street railway companies.
1902, 449, § 1.
See 1906, 218.

SECTION 60. A town in which no person or corporation is engaged in the business of generating or distributing electricity for sale for lighting purposes and which is not itself engaged in such business, and which has voted or shall vote, in accordance with the provisions of chapter thirty-four of the Revised Laws, to construct one or more plants for the manufacture or distribution of electricity for furnishing light for municipal use or for the use of its inhabitants, or for both purposes, may make contracts, for a term not exceeding ten years, with any street railway company operating a street railway in such town, for the purchase of electricity from such street railway company, for the purpose of furnishing light for municipal use or for the use of its inhabitants, or for both purposes; and any street railway company may make contracts for furnishing electricity as aforesaid to a town, but the same shall not become operative unless the board of railroad commissioners shall, after public notice and a hearing, approve the terms thereof as consistent with the public interests.

Delivery of electricity.
1902, 449,
§ 2.

SECTION 61. The electricity supplied by a street railway company to a town shall be delivered to the distributing system of said town at some specified place or places therein, and the meter or meters through which such electricity is measured shall be a part of the distributing system.

In case of disagreement, railroad commissioners to fix price of electricity.
1902, 449,
§ 3.

SECTION 62. If a town voting to purchase electricity from a street railway company is unable to agree with such company at the expiration of a contract made in accordance with the provisions of section sixty upon the price to be paid for electricity by, or upon the manner in which electricity is to be furnished to, said town in the future, such town through its selectmen may apply to the board of railroad commissioners to fix the price which said town shall pay for said electricity to, and the manner

in which electricity shall be furnished by, said company; and thereupon the said board shall set a date for a public hearing upon such application, giving said company reasonable notice thereof; and after the hearing said board shall, if it deems the furnishing of such electricity consistent with the interests of public travel upon the railway of such company, fix the price which said town shall pay for electricity to, and the manner in which electricity shall be furnished by, said company; and said company shall thereupon furnish to said town electricity at the price and in the manner fixed by said board.

SECTION 63. A town which has contracted with a street railway company for the purchase of electricity shall be subject to the provisions of chapter thirty-four of the Revised Laws and of all acts in amendment thereof or in addition thereto, so far as the same may be applicable.

To be subject to certain provisions of law. 1902, 449, § 4.

SECTION 155. Every state board and commission shall keep a record of its proceedings in any matter considered by it under the provisions of this chapter or under any laws affecting street railways, in which it shall enter every request made by any party before it for a ruling of law and of its action upon such request, and the neglect either to grant or refuse such request shall be taken in any judicial review of such proceedings as a refusal.

Records of proceedings before boards. 1898, 578, § 25. R. L. 112, § 98.

SECTION 160. This act shall not affect any act passed in the year nineteen hundred and six unless such act is specifically repealed herein.

Not to affect certain acts unless, etc.

Acts of 1906, Chapter 218.

An Act relative to the Purchase of Electricity by Towns from Street Railway Companies.

Section one of chapter four hundred and forty-nine of the acts of the year nineteen hundred and two is hereby amended by striking out the words "and which is not itself engaged in such business", in the third and fourth lines, and by inserting after the word "light", in the eighth and fourteenth lines, the words: — or power, — so as to read as follows: — *Section 1.* A town in which no person or corporation is engaged in the business of generating or distributing electricity for sale for lighting purposes, and which has voted or shall vote, in accordance with the provisions of chapter thirty-four of the Revised Laws, to construct one or more plants for the manufacture or distribution of electricity for furnishing light or power for municipal use or for the use of its inhabitants, or for both purposes, may make a contract or contracts, for a term not exceeding ten years, with any street railway company or companies operating a street rail-

1902, 449, § 1. Amended.

Certain towns may purchase electricity from street railway companies.

way in such town, for the purchase of electricity from such street railway company or companies, for the purpose of furnishing light or power for municipal use or for the use of its inhabitants, or for both purposes; and street railway companies may make contracts for furnishing electricity as aforesaid to a town, but the same shall not become operative unless the board of railroad commissioners shall, after a public hearing, approve the terms thereof as consistent with the public interests. [*Approved March 31, 1906.*]

Bonds,
issue of,
1891, 370,
§ 4.
Substitute.
1908, 341,
§ 4.

[SECTION 7. A city or town which establishes, purchases, reconstructs, extends or enlarges such a plant may, by a vote taken as prescribed in section eight of chapter twenty-seven issue bonds in payment of the same. The whole amount of bonds so issued shall not, at the par value of such bonds, exceed five per cent of the valuation of the town or two and one-half per cent of the valuation of the city, according to the last preceding state valuation. Such bonds shall be payable within thirty years, shall bear interest at a rate not exceeding five per cent and shall not be disposed of for less than par and accrued interest. The indebtedness created by the issue of such bonds shall not be subject to the provisions of chapter twenty-seven, except section twelve thereof.]

*Issue of bonds
for municipal
lighting pur-
poses.*
1908, 341,
§ 4.

Section 7. A city or town may, by a vote taken as prescribed in section eight of chapter twenty-seven, issue bonds for the purpose of establishing, purchasing, reconstructing, extending or enlarging such a plant. The whole amount of bonds so issued and outstanding at any one time shall not, at the par value thereof, exceed five per cent of the valuation of the town or two and one half per cent of the valuation of the city, according to the last preceding valuation for the assessment of taxes, of the taxable property therein. In ascertaining the amount of such bonds so outstanding the amount of the sinking fund applicable solely to payment of the bonds shall be deducted. Such bonds shall be payable within thirty years, shall bear interest at a rate not exceeding five per cent per annum, and shall not be disposed of for less than par and accrued interest. The indebtedness created by the issue of such bonds shall not be subject to the provisions of chapter twenty-seven, except section twelve thereof.

Revised Laws, Chapter 27, §§ 5, 8, 9, 12.

[SECTION 5. A city or town which establishes, purchases, reconstructs, extends or enlarges a gas or electric lighting plant within its limits may incur debt outside the debt limit prescribed in this chapter in payment therefor to an amount not exceeding, in a town, five per cent and, in a city, not exceeding two and one-half per cent of the last preceding state valuation.]

Limit of debt for municipal lighting. 1891, 370, § 4. Substitute. 1908, 341, § 2.

Section 5. A city or town may, in the manner and to the extent provided in chapter thirty-four, incur debt outside the debt limit prescribed in this chapter, for the purpose of establishing, purchasing, reconstructing, extending or enlarging a gas or electric light plant within its limits.

May incur debt for municipal lighting purposes. 1908, 341, § 2.

SECTION 8. Debts other than those mentioned in the two preceding sections shall be incurred only by a vote of two-thirds of the voters present and voting at a town meeting, or of two-thirds of all the members of each branch of the city council, taken by yeas and nays, and subject to the approval or disapproval of the mayor.

Other debts by two-thirds vote. 1875, 209, § 3. P. S. 29, § 7.

SECTION 9. A city or town which has incurred a debt within the limitations as to amount and time of payment prescribed by this chapter may issue bonds, notes or scrip therefor, properly denominated on the face thereof, signed by its treasurer and, if issued by a city, countersigned by its mayor, or if issued by a town, countersigned by a majority of its selectmen, with interest payable semiannually at such rate as it deems proper, and may sell said bonds, notes or scrip, at not less than par, at public or private sale or may use the same in payment of such debts.

Issue of notes, bonds and scrip. 1884, 129. 1896, 269.

SECTION 12. The interest on all debts shall annually be raised by taxation. If a debt is payable at a period exceeding ten years, the city or town shall, and in all other cases may, at the time of contracting the same, establish a sinking fund to be used for no other purpose than the payment of such debt, and shall annually raise by taxation and contribute thereto an amount sufficient with its accumulations to extinguish the debt at maturity; and if payable at a period not exceeding ten years, the city or town shall raise by taxation annually not less than eight per cent of the principal thereof, and shall set it apart for a sinking fund until an amount has been raised sufficient with its accumulations to extinguish the debt at maturity; and shall, in the year before the maturity of the debt, raise by taxation, any balance necessary for its extinguishment.

Interest to be raised annually by tax. Sinking funds to be established. 1875, 209, § 4. P. S. 29, § 9. [1 Op. A. G. 263.]

Annual
payments.
1893, 454,
§ 9.
1894, 182.

SECTION 8. Instead of issuing the bonds authorized by the preceding section, a city or town may provide for the payment of the debt incurred by it under the provisions of this chapter by such annual payments as will extinguish such debt within thirty years, and may issue bonds, notes or scrip therefor. The amount required for such annual payments shall, without further vote, be annually assessed by the assessors until said debt shall be extinguished, in the same manner as taxes are assessed under the provisions of section thirty-seven of chapter twelve.

Revised Laws, Chapter 27, § 13.

Annual pay-
ments in lieu
of sinking
fund.
1882, 133,
§ 1.
Amended.
1908, 341,
§ 1.

SECTION 13. A city or town, instead of establishing a sinking fund, may vote to provide for the payment of any debt by such [annual proportionate] payments as will extinguish the same at maturity, *but so that the amount of such annual payment in any year and the whole interest of such debt payable in the same year shall not together be less than the aggregate amount of principal and interest payable in any subsequent year*, and thereupon such annual [proportion] amount shall, without further vote, be assessed under the provisions of section thirty-seven of chapter twelve until such debt is extinguished.

Acts of 1910, Chapter 379.

An Act to Determine the Disposition to be made of Premiums upon Municipal Bonds.

Disposition
to be made of
premiums
upon municip-
al bonds
determined.

SECTION 1. Whenever a city, town, fire district, or water district shall issue and sell bonds to pay for the construction, purchase or extension of water works, sewerage or sewage disposal systems, electric lighting plants, street pavements or other public improvements, or for the refunding of any debt previously contracted for any such purpose, any premium received upon such bonds, less the cost of preparing, issuing and marketing them, shall be applied to the payment of the principal of the bonds in the manner prescribed in the following sections.

To be added to
sinking fund
in certain
cases, etc.

SECTION 2. When a sinking fund has been or is to be established to pay said bonds at maturity, the premium shall be added forthwith to the sinking fund, and the amount of the annual contribution to be made to the sinking fund shall be reduced correspondingly.

To be applied
to the payment
of principal of
first bond to
mature in
certain cases,
etc.

SECTION 3. In case no sinking fund is established for the retirement of the bonds, but in lieu thereof certain of the bonds mature and are to be paid at fixed periods, any premium received

MUNICIPAL LIGHTING PLANTS.

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as set forth in section one shall be applied to the payment of the principal of the first bond or bonds so to mature; and the contributions from other sources for the payment of said bonds shall be reduced correspondingly.

SECTION 4. This act shall take effect upon its passage. [*Approved April 8, 1910.*]

Acts of 1910, Chapter 616.

An Act Relative to the Form of Notes to be issued by Towns for Money Borrowed.

SECTION 1. The director of the bureau of statistics shall furnish to the treasurer of every town within the commonwealth a book of forms for the issue of notes for money borrowed by the town. The note shall state the amount thereof, the date of issue, the interest which it bears, and the date when it will become due for payment, and a record of every note so issued shall be kept by the treasurer of the town in such form as the director of the bureau of statistics may designate.

Director of the bureau of statistics to issue book of forms for town notes, etc.

SECTION 2. Whenever a town votes to raise money otherwise than by the issue of bonds to be paid for from a sinking fund or by the serial method, so-called, the treasurer shall make a note or notes for the amount of the proposed loan, and shall use one or more in serial order of the forms furnished as hereinbefore provided, with the blank spaces properly filled in, and shall sign the same in the space or spaces provided, and a majority of the selectmen shall countersign and approve each note in the presence of the town clerk, who shall certify to the fact on the face of the note and affix thereon the town seal in a space to be provided therefor. The treasurer, after making a record of the transaction in accordance with the provisions of section one, shall forward every such note to the director of the bureau of statistics, together with a copy of said record, and a copy of the vote authorizing the loan, certified by the town clerk, and a certification by the town clerk that the person whose signature appears upon the note as that of the treasurer was the duly authorized treasurer of the town at the date when such signature was made, and that the persons whose signatures appear upon the note as those of a majority of the selectmen were duly qualified selectmen when such signatures were made, and he shall at the same time forward the fee provided for by section four of this act. If upon examination said director finds that the note appears to have been duly issued in accordance with the vote of the town, and to have been signed by the duly qualified officials thereof, as herein provided, he shall so certify, and the director shall

Issue of notes by towns, etc.

thereupon return the note by registered mail to the treasurer of the town.

Director to be notified of payment, etc.

SECTION 3. Whenever any note issued by a town within the commonwealth, whether such note was issued before or after the passage of this act, shall have become due and shall have been paid, the town treasurer shall immediately notify the director of the bureau of statistics of such payment, stating the source from which the money to pay the same was obtained.

Fee.

SECTION 4. The director of the bureau of statistics shall establish a reasonable fee to be charged for every note certified, and shall turn over monthly to the treasurer of the commonwealth all such fees.

Penalty.

SECTION 5. A town treasurer who violates any provision of this act shall be liable to a fine of not less than one hundred nor more than five hundred dollars.

Time of taking effect.

SECTION 6. This act shall take effect on the first day of January in the year nineteen hundred and eleven. [*Approved June 10, 1910.*]

Enlargement of plant.
1891, 370,
§ 5.

SECTION 9. A city or town which owns such a plant shall not, except by a vote taken in the manner prescribed in section eight of chapter twenty-seven, reconstruct, enlarge or extend the same beyond the necessary and ordinary maintenance, repair and replacement thereof, or the provision of increased appliances necessary to distribute gas or electricity to new consumers.

Purchase of established plant.
1891, 370,
§ 12.
1893, 454,
§ 5.
1894, 538.
179 Mass. 382.

SECTION 10. If, when a city or town votes to establish a municipal lighting plant, any person or corporation engaged at the time of the first vote required by sections two and three of this chapter in the business of generating or distributing gas or electricity for sale for lighting purposes in such city or town shall elect to sell in the manner hereinafter provided, the city or town shall purchase of him or it such portion of his or its plant and property within the limits of such city or town as is suitable for and is used in connection with such business. Such purchase shall be required to include both a gas and electric lighting plant only if a single corporation owns or operates both such plants. If the main gas works or the central electric lighting station lie within the city or town limits, such city or town shall purchase the whole of such plant and the property used in connection therewith, lying within

such limits, at its fair market value for the purposes of its use; but no portion of such plant shall be estimated at less than its fair market value for any other purpose, including, as an element of value, [locations or similar rights and] the damages, if any, caused by the severance of any portion of such plant lying outside such city or town limits, if they are not purchased by the city or town, and excluding any mortgage or other encumbrance or lien to which such plant or any part thereof may be subject at the time of such purchase. The city or town may require the plant and property to be transferred to it free of any mortgage or lien unless the commissioners appointed under the provisions of the following section otherwise determine. Such value shall be estimated without enhancement on account of future earning capacity or good will or of exclusive privileges derived from rights in the public streets. If the main gas works or central electric lighting station of such plant lie without the city or town limits, the city or town shall purchase only that portion of the plant or property within its limits, estimating its value as above provided, but without allowance of damages on account of severance of plant. No city or town shall be required to buy any apparatus or appliances which are covered by letters patent of the United States or embody a patentable invention unless a complete right to use the same and all other apparatus or appliances necessary for its use, to such extent as such city or town shall reasonably require, shall be assigned or granted to it at a cost as low as it would be to the person or corporation whose plant is purchased. No city or town shall be required to buy any property unnecessarily added to a plant after the passage of its first vote under the provisions of sections two or three, nor any property except such as would be suitable for the ordinary business of the vendor. If any property or plant which the city or town would be entitled or required to buy would not be available to it if purchased, by reason of liens, interests of third parties, private contracts or other causes whereby the city or town would be at a greater disadvantage in its use than the vendor, it may be released from buying the same, or it may be allowed an equitable discount from the purchase price as the commissioners provided for in the following section determine.

*Amended.
1903, 255.*

Enforcement
of purchase.
1891, 370,
§ 13.
1893, 454,
§ 4.
161 Mass. 432.
163 Mass. 346.
Repealed.
1905, 410,
§ 1.

[SECTION 11. Any person, or corporation who desires to enforce the obligation of a city or town under the provisions of the preceding section to purchase any property shall, within thirty days after the passage of the final vote of such city or town to establish a plant, file with its clerk a detailed schedule of the property and a statement of the proposed terms of sale. If the parties fail to agree as to what property shall be sold, or as to the terms of sale and delivery, either party may, within sixty days after the filing of the schedule, apply by petition to the supreme judicial court which, after a hearing, shall appoint one or more commissioners who shall determine what property, real or personal, including rights and easements, shall be sold by the one and purchased by the other, and what the price, time and other conditions of the sale and delivery thereof shall be. Such commissioners shall file their report in the supreme judicial court for revision or confirmation. No commissioner shall be appointed until the expiration of sixty days after the filing of the schedule named in section fifteen unless the vote authorized by section sixteen has been passed, or unless it appears that the person or corporation filing the schedule owns no plant in an adjoining city or town which may be the subject of adjudication.]

*Plants for
the manufac-
ture or dis-
tribution of
gas or elec-
tricity may
be conveyed
to cities or
towns, etc.*
1905, 410,
§ 1.

Section 11. The owner of any plant for the manufacture or distribution of gas or electricity for light, heat or power in the city or town, who desires to sell the same under the provisions of this chapter, shall within sixty days after the passage of the final vote of the city or town required by section three of this chapter, file with the clerk of the city or town a good and sufficient conveyance duly executed of such parts of his plant as defined in section ten of this chapter as he desires to sell, together with a detailed schedule of the plant included in the conveyance and a statement of the price which he is willing to accept in payment for the same. Upon the filing of this conveyance the property thereby conveyed shall vest in the city or town, which shall be entitled to the immediate possession and use of the property conveyed; and the owner shall surrender possession of the same upon request. A city by vote of the city council, and a town by vote of the selectmen, may agree with the owner upon the price to be paid for the plant conveyed; but said agreement as to price shall not be binding in towns until ratified by a majority

vote at a town meeting called for action thereon; but if the city or town does not agree with the owner as to such price, or notifies him within thirty days after the filing of the conveyance that it is dissatisfied with the contents thereof, either as including property which ought not to have been included or as not including property which ought to have been included, either party may, within sixty days after the filing of the conveyance, apply to the supreme judicial court for the county in which the city or town is situated for the appointment of commissioners to determine what property ought to have been included in the conveyance and the value thereof. The court upon hearing and upon proof that the foregoing conditions have been complied with shall appoint one or more commissioners who shall hear the parties and determine, in accordance with the rules laid down in section ten of this chapter, the value of the property conveyed, and, if the sufficiency of the conveyance in this regard is disputed, what property ought to have been conveyed by the owner to the city or town and the value thereof. The commissioners shall file a report of their determination; and, if either party is aggrieved by said determination, it may within thirty days after the filing thereof file objections thereto. The court shall thereupon have jurisdiction to determine the questions raised by the petition and objections; and may recommit the report for further action by the commissioners, or otherwise determine the matter as in proceedings in equity. The reasonable charges of the commissioners for their services shall be paid one half by each party, which, together with the expense of the litigation, if any, arising under this section, may be reckoned as part of the indebtedness for which bonds may be issued under section seven of this chapter.

[SECTION 12. A party aggrieved by the award of the commissioners may, within fourteen days after it has been filed or within such further time as the court may allow, file objections to matters of fact or law therein, and thereupon the court, after notice to all parties interested, shall have jurisdiction in equity to hear and determine the same.]

Section 12. Any property conveyed which, according to the final decree of the court, ought not to have been conveyed, shall forthwith be reconveyed by the city or town to the owner without liability to account for the

Appeal from
award.
1891, 370,
§ 14.
Repealed.
1905, 410,
§ 2.

Certain prop-
erty may be
conveyed or
reconveyed,
etc.
1905, 410,
§ 2.

mesne profits thereof or to pay interest on the value thereof; and any property which, according to said decree, ought to have been but was not included in the conveyance, shall forthwith be conveyed by the owner to the city or town. The city or town shall pay the owner the value, determined as provided in section ten of this chapter, of the property conveyed or, if the sufficiency of the conveyance in this regard is disputed, the value of the property which ought to have been conveyed, with interest from the date of the conveyance or, if any additional conveyance is required by the decree from the dates of the several conveyances.

Purchase of property of plant in adjoining city or town.
1893, 454,
§ 1.

SECTION 13. If a city or town purchases a gas or electric lighting plant having mains, poles, wires or other distributing apparatus in an adjoining city or town in which there is no private gas or electric lighting company, it may also purchase such mains, poles, wires or other distributing apparatus therein, subject to the provisions of the three preceding sections.

Supply of light, etc., to adjoining place.
1893, 454,
§ 2.

SECTION 14. A city or town which has acquired, as hereinbefore provided, mains, poles, wires or other distributing apparatus in an adjoining city or town may thereafter manufacture, sell and distribute gas or electricity to said adjoining city or town or to its inhabitants, and shall thereafter have therein the same rights and franchises and be subject to the same limitations and obligations as the person or corporation from whom such outlying plant was purchased would have had or to which he or it would have been subject had such purchase not been made. If the adjoining city or town shall itself establish a gas or electric lighting plant, it shall, under the provisions of sections ten, eleven and twelve, purchase the plant and property within its limits owned by the other city or town, which, within thirty days after demand filed with its clerk, shall file with the clerk of the purchasing city or town the schedule required by section eleven, and shall sell the same; and thereupon its right to maintain a gas or electric lighting plant or to sell gas or electricity within the limits of the purchasing city or town shall cease as to the plant sold.

Enforcement of obligation of purchase.
1893, 454,
§ 3.

SECTION 15. After the first of the two votes required by sections two and three shall have been passed in a city or town, any person or corporation who owns a gas or elec-

tric lighting plant therein and desires to preserve the right to enforce the obligation of such city or town to purchase his or its plant shall, within thirty days after a written request therefor by the mayor, authorized by the city council, or by the selectmen, file with the city or town clerk a detailed statement of all the property and plant which he or it proposes to sell to such city or town, if it votes to establish a plant, and the proposed terms of sale. If any part of the plant or property which the city or town would have the right to buy lies in an adjoining city or town, a separate schedule and the proposed terms of sale thereof shall be filed; and all the property named in such schedule, or used in connection therewith shall at all reasonable times thereafter be open to the examination of the mayor, of any committee of the city council selected by him and of any experts necessary to determine the value thereof, or to the examination of the selectmen and of any such experts selected by them. The reasonable expenses of such schedule or of such examination or inspection shall be paid by the city or town requesting the same.

SECTION 16. Said city or town may, at any time within sixty days after the filing of such schedule, by vote of its city council or of the voters of the town, determine that such purchase shall include the property in an adjoining city or town, and thereupon it shall be under the same obligations and have the same rights as to the purchase of such outlying property as if it were within its limits; but such vote shall not prejudice the right of the city or town voting to resist its obligation to purchase the same for any reason except that such property is not within its limits. If such vote is not taken within said sixty days, the right of such city or town to buy the outlying property shall cease.

SECTION 17. If a city or town acquires a gas or electric lighting plant, the right of any person or corporation from whom such plant was acquired to manufacture and distribute gas or electricity within its limits shall cease.

[SECTION 18. A city or town which acquires a plant for the distribution, but not for the manufacture, of gas or electricity for lighting purposes, may purchase gas or electricity from an adjoining city or town or from any corporation manufacturing it.]

Vote of acceptance; effect. 1893, 454, § 4.

Termination of vendor's rights. 1891, 370, § 15.

Purchase of gas, etc., by city or town. 1893, 454, § 8. Repeal and substitute. 1909, 173.

Acts of 1909, Chapter 173.

An Act relative to the Purchase of Gas and Electricity by Certain Cities and Towns.

Gas and electricity may be purchased by certain cities and towns.

SECTION 1. A city or town which has acquired a plant for the manufacture or distribution of gas may purchase gas from another city or town or from any corporation manufacturing gas; and a city or town which has acquired a plant for the manufacture or distribution of electricity may purchase electricity from another city or town or from any corporation manufacturing electricity.

Repeal.

SECTION 2. Section eighteen of chapter thirty-four of the Revised Laws is hereby repealed.

SECTION 3. This act shall take effect upon its passage. [*Approved March 16, 1909.*]

Municipal light board in towns. 1893, 454, § 10.

SECTION 19. A town which has established or votes to establish a gas or electric lighting plant may elect a municipal light board consisting of three citizens of the town, one of whom shall be chosen for one year, one for two years, and one for three years, and at each annual meeting thereafter one for a term of three years, who shall have authority to construct, purchase or lease a gas or electric lighting plant in accordance with the vote of the town and to maintain and operate the same.

Manager of municipal lighting. 1891, 370, § 8. 1893, 454, § 10. 196 Mass. 43. Repealed. 1905, 410, § 3.

[SECTION 20. The mayor of a city or the selectmen, or municipal light board if any, of a town which acquires a gas or electric lighting plant shall appoint a manager of municipal lighting who shall, subject to any ordinance or by-law, be entrusted with the operation and management of such plant, the manufacture and distribution of gas or electricity, the purchase of supplies, the employment of agents and servants, with the method, time, price, quantity and quality of the supply, the collection and payment of bills, the keeping of accounts and custody of money received for gas or electricity or otherwise. His compensation shall be annually fixed, in cities, by the city council and, in towns, by the selectmen or municipal light board, and, before entering upon the performance of his official duties, he shall give bond to the city or town for the faithful performance thereof in a sum and form and with sureties to the satisfaction of the mayor, selectmen or municipal light board, and shall, at the end of each municipal

year, render to them such detailed statement of his doings and of the business and financial matters in his charge as the board of gas and electric light commissioners may prescribe. He shall also at any time, when required by the mayor, selectmen or municipal light board, make a statement of his doings, business, receipts, disbursements, balances, and of the indebtedness of the city or town in his department.]

Section 20. The mayor of a city or the selectmen, or municipal light board, if any, of a town which acquires a gas or electric lighting plant shall appoint a manager of municipal lighting who shall, under the direction and control of the mayor, selectmen or municipal light board, if any, and subject to the provisions of this chapter, have full charge of the operation and management of the plant, the manufacture and distribution of gas or electricity, the purchase of supplies, the employment of agents and servants, the method, time, price, quantity and quality of the supply, the collection of bills, and the keeping of accounts. His compensation and term of office shall be fixed in cities by the city council and in towns by the selectmen or municipal light board, if any; and, before entering upon the performance of his official duties, he shall give bond to the city or town for the faithful performance thereof in a sum and form and with sureties to the satisfaction of the mayor, selectmen or municipal light board, if any, and shall, at the end of each municipal year, render to them such detailed statement of his doings and of the business and financial matters in his charge as the board of gas and electric light commissioners may prescribe. All moneys payable to or received by the city, town, manager or board in connection with the operation of the plant, for the sale of gas or electricity or otherwise, shall be paid over to the city or town treasurer. All bills chargeable to the plant or the appropriations therefor shall be paid by the treasurer on requisition by the manager or municipal light board, if any. The manager shall at any time, when required by the mayor, selectmen, municipal light board, if any, or board of gas and electric light commissioners, make a statement to such officers of his doings, business, receipts, disbursements, balances, and of the indebtedness of the city or town in his department.

Manager of municipal lighting, appointment, powers, etc. 1905, 410, § 3.

Compensation, term of office, duties, etc.

Running expenses to be included in appropriations. 1891, 370, §§ 4, 8. Repealed. 1905, 410, § 4.

Manager to furnish estimate of income and expenses annually, etc. 1905, 410, § 4.

Amended. 1906, 411.

Excess of expense to be included in annual appropriations for maintenance and in tax levy, etc.

[SECTION 21. The gross expenses of running such plant and supplying gas or electric light, including the interest on bonds and the requirements of the sinking fund, shall be included by such city or town in its appropriations, and, in order to pay the operating expenses thereof, it may borrow money in accordance with section six of chapter twenty-seven. All receipts from the sale of gas or electricity by the manager of municipal lighting or otherwise shall be paid over to the city or town treasurer.]

Section 21. Prior to the beginning of each fiscal year the manager of the plant shall furnish to the mayor, selectmen or municipal light board, if any, an estimate of the income from sales of gas and electricity to private consumers during the ensuing fiscal year and of the expense of the plant during said year, meaning the gross expenses of operation, maintenance and repair, the interest on the bonds, notes or scrip issued to pay for the plant, an amount for depreciation equal to [five] three per cent of the cost of the plant exclusive of land and any water power appurtenant thereto, or such smaller or larger amount as the board of gas and electric light commissioners may approve, the requirements of the sinking fund or debt incurred for the plant, and the loss, if any, in the operation of the plant during the preceding year. The excess of the expense thus defined and estimated over the estimated income from sales to private consumers shall be included by the city or town in its annual appropriations for maintenance and in the tax levy. By cost of the plant is intended the total amount expended on the plant to the beginning of the fiscal year, for any purpose for which bonds, notes or scrip may be issued under sections seven and eight of this chapter. By loss in operation is intended the difference between the actual income from private consumers plus the appropriations for maintenance for the preceding fiscal year and the actual expense of the plant, reckoned as above, for that year in case such expense exceeded the amount of such income and appropriation. The income from sales and the money appropriated as aforesaid shall be used to pay the annual expense of the plant, defined as above, for the fiscal year, except that no part of the sum therein included for depreciation shall be used for other purpose than renewals, in excess of ordinary repairs, extensions, reconstruction, enlargements

and additions. The surplus, if any, of said annual allowances for depreciation after making the above payments shall be kept as a separate fund and used for renewals, other than ordinary repairs, extensions, reconstruction, enlargements and additions in succeeding years; and no debt shall be incurred under sections seven and eight of this chapter for any extension, reconstruction or enlargements of the plant in excess of the amount needed for the purpose in addition to the amount then on hand in said depreciation fund. Said depreciation fund shall be kept and managed by the city or town treasurer as a separate fund, subject to appropriation by the city council or selectmen, or municipal light board, if any, for the foregoing purpose. All appropriations for the plant shall be either for the annual expense defined as above, or for extensions, reconstruction, enlargements or additions; and no appropriation shall be used for any purpose other than that stated in the vote making the same. No bonds, notes or scrip shall be issued by a city or town for the annual expenses as defined in this section.

Depreciation fund to be kept, etc. See also 1908, 486.

Appropriations, etc.

Acts of 1908, Chapter 486.

An Act relative to the Uses of the Depreciation Funds of Municipal Gas and Electric Light Plants.

SECTION 1. In addition to the purposes to which the depreciation fund of a municipal gas or electric light plant may be devoted according to the provisions of section twenty-one of chapter thirty-four of the Revised Laws, as amended by section four of chapter four hundred and ten of the acts of the year nineteen hundred and five, and as further amended by chapter four hundred and eleven of the acts of the year nineteen hundred and six, so much of said fund as the board of gas and electric light commissioners may from time to time approve may be used to pay notes, bonds or scrip issued to pay for the cost of reconstruction or renewals in excess of ordinary repairs of a municipal gas or electric light plant, when such notes, bonds or scrip become due.

Use of depreciation funds of municipal gas and electric light plants, etc.

SECTION 2. This act shall take effect upon its passage. [Approved May 5, 1908.]

SECTION 22. There shall be a fixed price for gas and electricity, which shall not be changed oftener than once in three months. Any change shall take effect on the first

Regulation of price of gas, etc. 1891, 370, § 10.

day of a month, and shall first be advertised in a newspaper, if any, published in such city or town. The price shall not, except with the written consent of the board of gas and electric light commissioners, be fixed at less than cost, in which shall be included all operating expenses, interest on the net investment in the plant, less assessments collected under section twenty-five at the rate paid upon the bonds above provided for, the requirements of the sinking fund established to meet such bonds, and also depreciation of the plant, to be reckoned at not less than five per cent per annum of its cost, and losses; but any losses exceeding three per cent of the investment in the plant may be charged in different years at not more than three per cent per annum. Such price shall not be greater than shall allow, above such cost, a profit of eight per cent per annum to the city or town upon its net investment. The gas and electricity used by the city or town shall be charged to it at cost. A sufficient deposit to secure the payment for gas or electricity for three months may be required in advance from any consumer, and the supply may be shut off from any premises until all arrears for gas or electricity furnished thereon to such consumer shall have been paid. After three months' default in the payment of such arrears, all appliances for distribution belonging to such city or town on the premises may be removed and shall not be restored except on payment of all such arrears and the expenses of removal and restoration.

Certification
of notice of
change, etc.,
of price.
1892, 259,
§§ 3, 4.

SECTION 23. When a city or town fixes or changes such price, the manager of municipal lighting shall send a certified copy of the notice thereof to the board of gas and electric light commissioners, and for a failure or neglect so to do shall, for each offence, forfeit not more than twenty-five dollars.

Appeal.
1891, 370,
§ 7.
1894, 533.

SECTION 24. A city or town shall not be compelled to furnish gas or electricity to any person or corporation except upon the order of the board of gas and electric light commissioners, to whom any person or corporation aggrieved by the refusal of a city or town to furnish gas or electricity may appeal, stating the facts in such detail as the board directs.

Assessment
upon con-
sumers of
cost of
installation.
1891, 370, § 6.

SECTION 25. A city or town which acquires such a plant may provide by ordinance or by-laws for the equitable assessment upon the owner or occupant of any prem-

ises of the cost, or any part thereof, of laying and maintaining pipes, conduits, conductors or other appliances thereon. Payment of such assessments shall not be compulsory, but it shall be a condition precedent to the supply of gas or electricity to the occupants of such premises, and may be required before providing appliances therefor.

SECTION 26. A city or town which operates such a plant may pass ordinances or by-laws, imposing penalties not exceeding fifty dollars, to protect the plant, control its use and prevent accidents from gas or electricity supplied by it, and to govern consumers in their use thereof.

Ordinances
or by-laws.
1891, 370,
§ 11.

[SECTION 27. A city or town which manufactures or sells gas or electricity for lighting shall keep records of its work and doings at its manufacturing station, and in respect to its distributing plant, as required by the board of gas and electric light commissioners. The books, accounts and returns shall be made and kept, in a form prescribed by said board, and the accounts shall be closed on the thirtieth day of June annually and a balance sheet of that date shall be taken therefrom and included in the return of said board. The mayor or selectmen, or municipal light board if any, shall annually, on or before the second Wednesday of September, make a return to said board, for the year ending on the thirtieth day of June, signed and sworn to by the mayor or a majority of the selectmen or municipal light board if any, and by the manager, stating the financial condition of said business, the amount of indebtedness both authorized and existing on account thereof, a statement of income and expenses in such detail as the board may require, and a list of its salaried officers and the salary paid to each. The mayor, the selectmen or the municipal light board may direct any additional returns to be made at such time and in such detail as they may order. The mayor, selectmen or municipal light board and manager shall, at any time, on request, submit said books and accounts to the inspection of said board, and furnish any statement or information required by it relative to the condition, management and operation of said business.]

Records,
kept where.
1891, 370,
§ 9.
1896, 356,
480.
Repeated.
1905, 410,
§ 5.

Section 27. A city or town which manufactures or sells gas or electricity for lighting shall keep records of its work and doings at its manufacturing station, and in respect to its distributing plant, as required by the board of gas and

Records to
be kept, etc.
1905, 410,
§ 5.

electric light commissioners. It shall install and maintain apparatus, satisfactory to said board, for the measurement and recording of the output of gas and electricity, and shall sell the same by meter to private consumers when required by said board; and if required by said board shall measure all gas or electricity consumed by the city or town. The books, accounts and returns shall be made and kept, in a form prescribed by said board, and the accounts shall be closed on the thirtieth day of June annually and a balance sheet of that date shall be taken therefrom and included in the return of said board. The mayor or selectmen, or municipal light board, if any, shall annually, on or before the second Wednesday of September, make return to said board, for the year ending on the thirtieth day of June, signed and sworn to by the mayor or a majority of the selectmen or municipal light board, if any, and by the manager, stating the financial condition of said business, the amount of authorized and existing indebtedness, a statement of income and expenses in such detail as the board may require, and a list of its salaried officers and the salary paid to each. The mayor, the selectmen or the municipal light board may direct any additional returns to be made at such time and in such detail as they may order. The mayor, selectmen or municipal light board and manager shall, at any time, on request, submit said books and accounts to the inspection of said board, and furnish any statement or information required by it relative to the condition, management and operation of said business. The board of gas and electric light commissioners shall, in its annual report, describe the operation of the several municipal plants with such detail as may be necessary to disclose the financial condition and results of each plant; and shall state what cities or towns, if any, operating a plant have failed to comply with the provisions of this chapter, and what, if any, are selling gas or electricity with the approval of the board at less than cost.

Return to be made to gas and electric light commissioners annually, etc.

Books and accounts to be submitted to inspection of gas and electric light commissioners on request, etc.

Acts of 1910, Chapter 624.

An Act to authorize the Appointment of Town Accountants, and prescribing their Duties

Appointment of town accountants, etc.

SECTION 1. Any town, at a town meeting lawfully called for the purpose, may authorize the selectmen to appoint a town accountant and he shall perform all of the duties and possess all of

the powers of town auditors as defined in sections seventy-nine and eighty of chapter twenty-five of the Revised Laws and chapter three hundred and twenty-two of the acts of the year nineteen hundred and four. In towns authorizing the appointment of a town accountant as aforesaid the office of town auditor may, if the town so vote, be abolished. The appointment of the town accountant shall be subject to the provisions of chapter nineteen of the Revised Laws and the rules thereunder, provided that said chapter has been accepted by said town. The town accountant shall be sworn to the faithful performance of his duties, shall hold no other town office involving the receipt or disbursement of money, shall receive such salary as the town shall vote and shall hold office for three years and until his successor has been appointed and has qualified.

SECTION 2. The selectmen and all boards, committees, heads of departments and officials authorized to expend money shall approve and transmit to the town accountant as often as once each month all bills, drafts and orders chargeable to the respective appropriations of which they have the expenditure. The town accountant shall examine all such bills, drafts or orders, and if found correct and approved as provided for above shall draw a warrant upon the treasurer for the payment of the same; but such warrant shall only be valid when signed by the official or a majority of the board or committee authorized to make the expenditure. The treasurer shall pay no money from the treasury except upon a warrant so signed.

Bills to be transmitted monthly to the town accountant, etc.

SECTION 3. The town accountant shall keep a complete set of books wherein shall be entered the amount of each specific appropriation, the amounts and purposes of expenditures made therefrom, the receipts from each source of income, the amount of each assessment levied, and the abatements made; and he shall keep his accounts, so far as practicable, in conformity with the classifications and forms prescribed by the bureau of statistics of the commonwealth in accordance with the provisions of chapter three hundred and seventy-one of the acts of the year nineteen hundred and nine. The town accountant shall have custody of all contracts of the town, shall keep a register of the sureties on all bonds of indemnity given to the town, shall keep a detailed record of the town debt which shall show the purpose for which the same was issued, when issued, when due, the rate of interest and the provisions made for the payment of the debt.

Books to be kept, etc.

SECTION 4. Whenever any appropriation shall have been expended or whenever, in the judgment of the town accountant, it

Notice to be given to selectmen

when liabilities are in excess of unexpended balance, etc.

appears that the liabilities incurred against any appropriation may be in excess of the unexpended balance of said appropriation, he shall immediately give notice to the selectmen and to the board, committee, head of department, or official authorized to make expenditures from said appropriation, and no claim against such appropriation shall be allowed nor any further liability be incurred until the town makes provision for the payment of the same. The town accountant shall, at regular intervals and as often at least as once each month, send to the selectmen and to each board, committee, head of department or official having the disbursement of an appropriation, a statement of the amount of orders approved and warrants drawn on behalf of said board, department or official during the preceding month, and a statement of the balance of such appropriation remaining subject to draft. Each head of a department, board or committee authorized to expend money shall furnish the town accountant, at the close of the fiscal year, a list of all bills remaining unpaid, showing to whom the same are due, for what due, and the amounts; and the town accountant shall incorporate the same in his annual report covering the financial transactions of the town, as provided by section seven of this act.

List of all unpaid bills to be furnished to the town accountant, etc.

Detailed estimates to be furnished to the town accountant, etc.

SECTION 5. The selectmen and all boards, committees, heads of departments or other town officials authorized by law to expend money shall furnish to the town accountant, not less than ten days before the end of the town financial year, detailed estimates of the amounts necessary for the proper maintenance of the department under their jurisdiction for the ensuing year, with explanatory statements as to any changes from the amounts appropriated for the same purposes in the preceding year; and an estimate of amounts necessary for outlays or permanent improvements. They shall also prepare estimates of any income likely to be received by the town during the ensuing year in connection with the town's business or property entrusted to their care. The selectmen shall include in their estimates the salaries and expenses connected with their own office, and the salaries of all other town officers shall be included in the estimates for the office, department or branch of the public service committed to their charge. The treasurer shall, in addition to his estimate of the amount required for the maintenance of his own office, prepare a separate statement indicating the amounts required for the payment of interest on the town debt and for the payment of such portions of the town debt as may become due during the succeeding year.

Separate statement to be furnished for payment of interest.

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SECTION 6. The town accountant shall immediately upon the close of the fiscal year compile statements in tabulated form so as to show the amounts appropriated and the amounts expended from each appropriation during the preceding year, and the estimates for the current year, and shall forthwith furnish a copy of the same to the selectmen, who shall, after due consideration, designate the amounts which in their opinion should be appropriated for the ensuing year, and shall accompany the same with such explanations and suggestions in relation to proposed appropriations as they may deem desirable for the proper information of the citizens. The selectmen shall cause this document to be printed and to be distributed in advance of or at the annual town meeting, and the town clerk shall transmit a copy of the same and of all town reports to the director of the bureau of statistics.

Tabulated statements to be furnished showing appropriations and expenditures for the preceding year, etc.

SECTION 7. The town accountant shall make an annual report, which shall be published as a town document, giving a statement of all receipts and expenditures of the town for the past financial year, including those of funds managed by trustees or commissioners for the town and showing also the amount of each specific appropriation, the expenditures therefrom, and the purpose for which money has been spent; and said statement shall be arranged in accordance with the classifications prescribed by the bureau of statistics. His report shall also contain a statement of any change in the amount of the town debt during the year, together with a list of all indebtedness incurred and not paid up to the end of the fiscal year.

Annual report.

SECTION 8. All acts and parts of acts inconsistent herewith are hereby repealed.

Repeal.

SECTION 9. This act shall take effect upon its passage. [*Approved June 14, 1910.*]

SECTION 28. A city or town which owns or operates a gas or electric lighting plant shall be liable for any injury or damage to persons or property caused by its maintenance or operation, in the same manner and to the same extent as a private corporation; but it shall not be liable for damages caused by competition with an existing gas or electric lighting plant therein.

Liability for injury or damage. 1891, § 70, § 16. 185 Mass. 215.

[SECTION 29. The provisions of sections four, five, six, twenty-three and twenty-seven, relative to books, accounts and returns, shall apply to a city or town authorized by

Application of special laws. 1892, 259, § 5. Repealed. 1905, 410, § 6.

special act to construct, purchase, lease, establish or maintain a gas or electric lighting plant.]

To apply to certain cities and towns, etc.
1905, 410,
§ 6.

Section 29. A city or town authorized by special act to construct, purchase, lease, establish or maintain a gas or electric lighting plant shall be subject to the provisions of this chapter and to any amendments thereof or additions thereto, so far as the same may be applicable.

Application of general laws, and ordinances or by-laws.
1891, 370,
§ 17.
[1 Op. A. G. 550.]

SECTION 30. All general laws, and all ordinances or by-laws of any city or town acting under the provisions of this chapter, relative to the manufacture, use or distribution of gas or electricity, or to the quality thereof, or to the plant or the appliances therefor, shall apply to such city or town, in the same manner as to persons, so far as applicable and consistent with the provisions of this chapter.

Revocation of locations regulated.
1891, 370,
§ 18.
161 Mass. 432.

SECTION 31. No city or town having within its limits the main gas works or the central electric lighting station, or the major portion of the wires, poles, conduits or pipes used in connection with any such works or plants, shall, except for a violation of the terms or conditions upon which the same were granted or for a violation of law respecting the exercise thereof, revoke any rights granted to any person or corporation engaged in the business of manufacturing or distributing gas or electricity for sale for lighting purposes, after the introduction of the first vote authorizing the establishment of a municipal lighting plant in a city council under the provisions of section two or after the calling of a town meeting under a warrant including an article on the passage of such vote, until the proceedings so begun have been finally determined by granting or denying authority to establish such plant. After the passage and ratification of both votes required by sections two or three, no city or town, except as hereinbefore provided, shall revoke any rights, locations or licenses granted to any such person or corporation.

Enforcement of provisions.
(New section.)
1905, 410,
§ 7.

Section 32. In addition to the jurisdiction conferred by section eleven of this chapter on the supreme judicial court for the county in which the city or town is situated, said court shall have jurisdiction on petition of the board of gas and electric light commissioners or of twenty taxable inhabitants of the city or town to compel the fixing of prices by the city or town in accordance with the provisions of

sections twenty-one and twenty-two of this chapter, to prevent any city or town from purchasing or operating a gas or electric plant in violation of any of the provisions of this chapter, and generally to enforce compliance with the terms and provisions thereof.

Acts of 1909, Chapter 514, §§ 20, 21, 22, 23, 37, 38, 39, 40, 41, 42, 43.

SECTION 20. Every employee in public work shall lodge, board and trade where and with whom he elects, and no person or his agents or employees under contract with the commonwealth, a municipal corporation or a county, or with a board, commission or officer acting therefor, for the doing of public work shall, directly or indirectly, require, as a condition of employment therein, that the employee shall lodge, board or trade at a particular place or with a particular person. The provisions of this section shall be made a part of the contract for such employment, and whoever violates the provisions thereof shall be punished by a fine of not more than one hundred dollars for each offence.

Right of
employee in
public work
to select
lodging, etc.
R. L. 106,
§ 13.

SECTION 21. In the employment of mechanics and laborers in the construction of public works by the commonwealth, or by a county, city or town, or by persons contracting therewith, preference shall be given to citizens of the commonwealth, and, if they cannot be obtained in sufficient numbers, then to citizens of the United States; and every contract for such works shall contain a provision to this effect. Any contractor who knowingly and wilfully violates the provisions of this section shall be punished by a fine of not more than one hundred dollars for each offence.

Preference
to citizen me-
chanics and
laborers.
R. L. 106,
§ 14.
1904, 311.

SECTION 22. A person to whom a debt is due for labor which has been performed in constructing a building, sewer or drain, or water works or other public works, owned by a city or town, under a contract with any person having authority from or rightfully acting for such city or town in furnishing such labor, shall have a right of action against such city or town to recover such debt if, within thirty days after he ceases to perform such labor, he files in the clerk's office of the city or town against which he claims such right of action a written statement, under oath, of the amount of the debt so due to him, and the names of the persons for whom and by whose employment the labor was performed, and if, within sixty days after he ceases to perform such labor, he commences such action. Such right of action shall not be lost by reason of a mistake in stating the amount due; but the claimant shall not recover as damages a larger amount than is named

Actions
against
towns for
labor.
R. L. 25,
§ 57.

in said statement as due to him, with interest. No person who has contracted to furnish labor other than his own in such construction shall have such right of action.

Security for
payment of
labor on pub-
lic works.
1904, 349.

SECTION 23. Officers or agents who contract in behalf of any county, city or town for the construction or repair of public buildings or other public works shall obtain sufficient security, by bond or otherwise, for payment by the contractor and sub-contractors for labor performed or furnished and for materials used in such construction or repair; but in order to obtain the benefit of such security the claimant shall file with such officers or agents a sworn statement of his claim within sixty days after the completion of the work.

HOURS OF LABOR.

Hours of
labor for
public
employees.
R. L. 106,
§ 19.
1906, 517,
§ 1.
1907, 269,
§ 1; 570.

SECTION 37. Eight hours shall constitute a day's work for all laborers, workmen and mechanics now or hereafter employed by or on behalf of the commonwealth, or of any county therein, or of any city or town which, prior to the twenty-eighth day of June in the year nineteen hundred and seven had accepted the provisions of section twenty of chapter one hundred and six of the Revised Laws. No laborer, workman or mechanic so employed shall be requested or required to work more than eight hours in any one calendar day or more than forty-eight hours in any one week except in cases of extraordinary emergency. Only a case of danger to property, to life, to public safety or to public health shall be considered a case of extraordinary emergency within the meaning of this section. Threat of loss of employment or threat to obstruct or prevent the obtaining of employment, or threat to refrain from employing in the future shall be considered requiring, within the meaning of this section. Engineers shall be considered mechanics within the meaning of this section. But in cases where a weekly half-holiday is given, the hours of labor upon the other working days of the week may be increased sufficiently to make a total of forty-eight hours for the week's work.

Public con-
tracts to
stipulate
hours of
labor.
R. L. 106,
§ 21.
1906, 517,
§ 2.
1907, 269,
§ 2.

SECTION 38. Every contract, except contracts for the purchase of material or supplies, to which the commonwealth, or any county therein, or any city or town which has accepted the provisions of section twenty of chapter one hundred and six of the Revised Laws, or may accept the provisions of section forty-two of this act, is a party, which may involve the employment of laborers, workmen or mechanics shall contain a stipulation that no laborer, workman or mechanic working within this commonwealth in the employ of the contractor, sub-contractor or other

person doing or contracting to do the whole or a part of the work contemplated by the contract shall be requested or required to work more than eight hours in any one calendar day and every such contract which does not contain this stipulation shall be null and void.

SECTION 39. The two preceding sections shall apply to all laborers, workmen or mechanics engaged upon any works which are or are intended to be the property of the commonwealth, or of any county therein, or of any city or town which has accepted the provisions of section twenty of chapter one hundred and six of the Revised Laws, or may accept the provisions of section forty-two of this act whether such laborers, workmen or mechanics are employed by public authority or by a contractor or other private person. They shall not apply to persons employed in any state, county or municipal institution, on the farm, or in the care of the grounds, in the stable, in the domestic or kitchen and dining-room service, or in storerooms and offices.

SECTION 40. Any person or contractor or sub-contractor, or any agent or person acting on behalf of any contractor or sub-contractor, or any agent or official of the commonwealth or of any county, city or town who violates any provision of the three preceding sections shall be subject to a penalty of fifty dollars for each offence.

SECTION 41. The provisions of the four preceding sections shall not apply to or affect contractors or sub-contractors for work, contracts for which were entered into prior to the twenty-second day of June in the year nineteen hundred and six.

SECTION 42. In a city or town which, by a vote taken by ballot at an annual election, accepts the provisions of this section, or, subsequently to the twenty-eighth day of June in the year nineteen hundred and seven, accepted the provisions of section twenty of chapter one hundred and six of the Revised Laws, eight hours shall constitute a day's work for all laborers, workmen and mechanics who are employed by such city or town. If a petition for such vote, signed by one hundred or more registered voters of a city, or twenty-five or more registered voters of a town, is filed with the city or town clerk, respectively, thirty days or more before an annual election such vote shall be taken at such election.

SECTION 43. In a city or town, which has not accepted the provisions of sections thirty-seven or forty-two, nine hours shall constitute a day's work for all laborers, workmen and mechanics who are employed by or on behalf of such city or town.

Extent of application of two preceding sections.
1906, 517,
§ 3.
1907, 570.

Penalty.
1906, 517,
§ 4.
1907, 269,
§ 3.

Application of four preceding sections.
1906, 517,
§ 5.

Acceptance by cities, etc., of eight-hour law.
R. L. 106,
§ 20.

Nine hours a day's work, when.
R. L. 106,
§ 19.

CHAPTER 58.

OF THE INSPECTION OF GAS AND GAS METERS.

Appointment
of inspector
and assistants.
1861, 168,
§§ 1, 2.
1880, 230, § 1.
P. S. 61, § 1.
1889, 169,
1900, 459, § 1.

Oath and
bond.
1861, 168,
§§ 1, 2.
1880, 230, § 1.
P. S. 61,
§§ 1, 3.
1889, 169,
1900, 459,
§§ 1, 3.
Repealed.
1902, 228.

Inspector
and assistant
inspectors
to be dis-
interested.
1861, 168,
§ 2.
1880, 230,
§ 1.
P. S. 61, § 4.
Repealed.
1902, 228.

— duties of.
1861, 168,
§§ 1, 7.
1864, 296.
1880, 230,
§§ 1, 6.
P. S. 61,
§§ 5, 9.
1885, 314,
§ 15.
1900, 459,
§ 5.
Repealed.
1902, 228.

[SECTION 1. The governor, with the advice and consent of the council, shall appoint an inspector and two assistant inspectors of gas meters and of illuminating gas, for a term of three years from the date of their respective appointments.]

Repealed. 1902, 228.

[SECTION 2. The inspector and assistant inspectors shall be sworn to the faithful performance of their official duties. The inspector shall give bond to the treasurer and receiver general in the penal sum of five thousand dollars for the faithful performance of the duties of his office, and each assistant inspector shall give like bond in the penal sum of two thousand dollars.]

[SECTION 3. The inspector, assistant inspectors or deputy inspectors shall not be pecuniarily interested, directly or indirectly, in the manufacture or sale of illuminating gas, gas meters or any article or commodity used by gas light companies or used for any purpose connected with the consumption of gas or with a gas company, and shall not give certificates or written opinions to a maker or vendor of any such article or commodity.]

[SECTION 4. The inspector shall have an office in Boston, which he shall provide with such apparatus and chemicals as he deems necessary for the proper performance of his official duties. He shall, when required as hereinafter provided, inspect, examine, ascertain and prove the accuracy of all gas meters which are to be used for measuring the quantity of illuminating gas and are to be furnished to or for the use of any person, and shall seal, stamp or mark every such meter, if found to be correct, with some suitable device, which shall be recorded in the office of the secretary of the commonwealth, and with the inspector's name, the date of his inspection and the number of burners which the meter is calculated to supply. He shall, upon request of the board of gas and electric light commissioners, give to it such information and assistance as it may require consistent with the duties of his office, and he shall also annually in January report to the general court the number of meters inspected and sealed during the preceding year, with other information

which he deems expedient. The assistant inspectors shall, under the direction of the inspector, aid him in performing the duties of his office.]

[SECTION 5. If the inspector is unable to attend to his duties in any city or town, he shall appoint for temporary service one or more deputy inspectors of meters for the county in which such city or town is situated. Such deputies shall be sworn, shall act under his direction, shall not be connected with or employed by any gas company, and from their decisions the gas company or the consumer may appeal to the inspector. For the services of such deputies in examining, comparing and testing meters, with or without stamping them, the inspector may collect a fee of twenty-five cents for each meter delivering not more than a cubic foot of gas in four revolutions, vibrations or complete repetitions of its action, and for each meter so delivering more than a cubic foot, a fee of thirty cents, with twenty cents added for every additional cubic foot so delivered. From such fees the inspector shall be allowed annually not more than twenty-five hundred dollars for the compensation of such deputies; and any excess shall be paid into the treasury of the commonwealth by said inspector quarterly on the first Monday of January, April, July and October of each year.]

Appointment of deputy inspectors. Fees. 1861, 168, \$ 4. 1881, 182. P. S. 61, § 6. 1899, 465, § 2. Repealed. 1902, 228.

[SECTION 6. The salary of the inspector shall be twenty-five hundred dollars a year, and the salary of the first assistant inspector shall be fifteen hundred dollars a year and the salary of the second assistant inspector shall be twelve hundred dollars a year. They shall also be paid all actual travelling expenses necessarily incurred by them in the performance of their official duties. The inspector shall be allowed annually not more than sixteen hundred dollars for the payment of the cost of apparatus and office rent and expenses. Said salaries and expenses shall be paid by the commonwealth, but no larger amount shall be so paid than is actually paid into the treasury in the manner provided in the following section.]

Salaries and expenses. 1861, 168, \$ 2. 1879, 172, \$ 1. 1880, 230, §§ 1, 2. P. S. 61, § 2. 1899, 465, § 1. 1900, 459, § 2, 5. Repealed. 1902, 228.

[SECTION 7. The amount of the salaries of the inspector and of the assistant inspectors and of their travelling expenses, with any expenses incurred under the provisions of sections four and five, less the amount deposited with the treasurer and receiver general from the

— how paid. 1861, 168, \$ 3. 1878, 223. P. S. 61, § 7. 1900, 459, § 4. Repealed. 1902, 228.

fees for the inspection of meters, shall be annually assessed by the tax commissioners upon, and paid into the treasury of the commonwealth by, the several gas companies in the commonwealth, in proportion to their appraised valuation as declared in the returns required to be made by them to the assessors annually in May; and if any such company refuses or neglects, for thirty days after written notice given by the treasurer and receiver general, to pay into the treasury the amount required of such company on account of such salaries and expenses, the said treasurer shall, in the name of and for the use of the commonwealth, sue such company for such amount, with interest thereon at the rate of ten per cent per annum from the time when said notice was given, and for the costs of the action. If at any time, however, the amount of fees collected under the provisions of section five shall exceed the amount of the salaries and the travelling expenses and other expenses of the inspector and the assistant inspectors, such excess shall be applied to reduce the annual assessment levied upon the several gas companies for the annual expenses of the board of gas and electric light commissioners under the provisions of chapter one hundred and twenty-one.]

Acts of 1902, Chapter 228.

An Act to transfer the Powers and Duties of the Inspector of Gas Meters and of Illuminating Gas to the Board of Gas and Electric Light Commissioners.

Powers and duties of inspector of gas meters, etc., transferred to gas and electric light commissioners.

SECTION 1. The powers and duties heretofore conferred and imposed upon the inspector of gas meters and of illuminating gas are hereby conferred and imposed upon the board of gas and electric light commissioners. The care and custody of all property of the Commonwealth in the possession of said inspector are hereby transferred to said board.

Inspectors, appointment, term, etc.

SECTION 2. Said board shall have under their control an inspector and one or more assistant inspectors, who shall be appointed by the governor, with the advice and consent of the council, for terms of three years from the dates of their respective appointments, and who shall be sworn to the faithful performance of their official duties. The inspector, assistant inspectors, and the deputy inspectors hereinafter provided for, shall not be pecuniarily interested, directly or indirectly, in the manufacture or sale of illuminating gas, of gas meters, or of any other article or commodity used by gas light companies or used for any pur-

pose connected with the consumption of gas or with gas companies, and shall not give certificates or written opinions to makers or vendors of any such articles or commodities.

[SECTION 3. Said inspectors, subject to the rules and regulations prescribed by the board, shall make the inspections of gas required by section fourteen of chapter fifty-eight of the Revised Laws, and shall inspect, examine, ascertain and prove the accuracy of all gas meters which are used for measuring the quantity of illuminating gas and are to be furnished to or for the use of any person, and shall seal, stamp or mark every such meter, if it be found correct, with some suitable device, which shall be recorded in the office of the secretary of the commonwealth, and with the name of the inspector, the date of the inspection and the number of burners which the meter is intended to supply. They shall also perform such other duties and make such reports of their doings as the board may require.]

Powers and
duties.
Substitute.
1909, 483,
§ 5.

Section 3. Said inspectors, subject to the rules and regulations prescribed by the board of gas and electric light commissioners, shall make the inspections of gas required by section fourteen of chapter fifty-eight of the Revised Laws, and shall inspect, examine, ascertain and prove the accuracy of all meters which are to be used for measuring illuminating gas and are to be furnished to or for the use of any consumer or company, and shall seal, stamp or mark every such meter, if it be found correct, with some suitable device which shall be determined by the board and recorded in the office of the secretary of the commonwealth. They shall also perform such other duties and make such reports of their doings as the said board may require.

Powers and
duties of
inspectors.
1909, 483,
§ 5.

[SECTION 4. If the inspectors at any time are unable fully to perform the duties required of them by this act the board shall appoint for temporary service one or more deputy inspectors of meters, and shall determine their compensation. Any person now in the service of the inspector of gas meters and of illuminating gas may be appointed or employed as such deputy without civil service examination. Such deputies shall be sworn, shall act under the direction of said board, shall not be connected with or employed by any gas company, and from their decisions the gas company or the consumer may appeal to the board.]

Deputy in-
spectors may
be appointed
for temporary
service.
Substitute.
1909, 483,
§ 6.

Section 4. The board may from time to time, if in its opinion such action is necessary, appoint one or more deputy inspectors of meters for such term not exceeding one year and at such compensation as the board may determine. Any person now in the

Deputy in-
spectors, ap-
pointment,
duties, etc.
1909, 483,
§ 6.

service of the board as a deputy inspector of meters may be so appointed or employed without civil service examination. Such deputy inspectors of meters shall be sworn, shall act under the direction of said board, shall not be connected with or employed by any gas company, and from their decisions the gas company or the consumer may appeal to the board.

Fees.
Substitute.
1909, 483,
§ 7.
See also
1908, 469.
Affected.
1909, 318.

[SECTION 5. For examining, comparing and testing meters, with or without stamping them, the board may collect a fee of twenty-five cents for each meter delivering not more than a cubic foot of gas in four revolutions, vibrations or complete repetitions of its action, and for each meter so delivering more than a cubic foot, a fee of thirty cents with twenty cents added for every additional cubic foot so delivered. The board shall designate one of its members to receive said fees, who shall give a bond to the treasurer and receiver general in the penal sum of five thousand dollars. All fees so received shall be paid into the treasury of the Commonwealth quarterly, on the last days of March, June, September and December in each year.]

Fees.
1909, 483,
§ 7.

Section 5. For examining, comparing and testing meters, with or without stamping them, the board may collect a fee of twenty-five cents for each meter delivering not more than a cubic foot of gas in four revolutions, vibrations or complete repetitions of its action, and for each meter so delivering more than a cubic foot, a fee of thirty cents with twenty cents added for every additional cubic foot so delivered. For examining, comparing, testing or calibrating meter provers and test or photometer meters, with or without sealing or certifying to the same, the board may collect such fees as it may from time to time establish therefor. The board shall designate one of its members to receive all fees, who shall give a bond to the treasurer and receiver general in the penal sum of five thousand dollars.

Compensation of inspectors, etc.
Repeal and substitute.
1907, 54, § 2.
See also 1908, 536, § 2.
Substitute.
1909, 483,
§ 8.

[SECTION 6. The salary of the inspector shall be twenty-five hundred dollars a year, the salary of the first assistant inspector shall be fifteen hundred dollars a year, and the salary of the second assistant inspector, if there be one appointed, shall be twelve hundred dollars a year, and the board may expend annually a sum not exceeding five thousand dollars for the compensation of deputies and for necessary apparatus, travelling expenses, office rent and expenses, and for other necessary expenses incident to the duties of said inspectors.]

Compensation of inspectors, etc.
1909, 483,
§ 8.

Section 6. Except as provided in chapter five hundred and thirty-six of the acts of the year nineteen hundred and eight, the salary of the inspector of gas and gas meters shall be twenty-five

hundred dollars a year and the board may expend annually for the compensation of assistant inspectors and deputy inspectors of meters and for necessary apparatus, travelling expenses, office rent and expenses, and for other necessary expenses incidental to the duties of said inspectors such sums of money as may from time to time be appropriated therefor by the legislature.

(For Acts of 1907, chapter 54, § 2, see page 11.)

(For Acts of 1908, chapter 536, see page 11.)

SECTION 7. The amount of the expenses incurred by the board under this act, and of salaries paid thereunder, less the amount deposited with the treasurer and receiver general from the fees for the inspection of meters, shall be borne by the several gas companies in proportion to their gross earnings, and shall be assessed and recovered in the manner provided by section ten of chapter one hundred and eleven of the Revised Laws for the assessment and recovery of the expenses of the railroad commissioners. If at any time however the amount collected under the provisions of section five hereof shall exceed the amount of such salaries and expenses, such excess shall be applied to reduce the annual assessment levied upon the several gas companies under the provisions of chapter one hundred and twenty-one of the Revised Laws, for the annual expenses of the board.

Payment of expenses of board, etc.

SECTION 8. Sections one, two, three, four, five, six and seven of chapter fifty-eight of the Revised Laws, and so much of section seven of chapter nine thereof as relates to the annual report of the inspector of gas and gas meters, are hereby repealed.

Repeal.

SECTION 9. So much of this act as relates to the appointment of the inspector and assistant inspectors shall take effect upon its passage, and the remainder of this act shall take effect as soon as said officers are appointed and qualified. [*Approved March 27, 1902.*]

When to take effect.

Acts of 1908, Chapter 469.

An Act to provide for reimbursing Certain Officials for Premiums paid for procuring Sureties on their Bonds.

SECTION 1. When an official who has the custody of property of the commonwealth, or who is charged with the duty of receiving or disbursing money, is required to give bond to the commonwealth for the faithful discharge of his duty, the commonwealth shall reimburse him for the amount paid by him to a surety company for becoming surety on his official bond.

Officials giving bonds to be reimbursed, etc.

SECTION 2. This act shall take effect upon its passage. [*Approved May 1, 1908.*]

INSPECTION OF GAS AND GAS METERS.

Acts of 1909, Chapter 318.

An Act relative to the Receipts of the Board of Gas and Electric Light Commissioners.

Certain fees to be paid into the treasury.

SECTION 1. All fees received by the board of gas and electric light commissioners shall be paid into the treasury of the commonwealth monthly, upon the last business day of each month.

Repeal.

SECTION 2. So much of section five of chapter two hundred and twenty-eight of the acts of the year nineteen hundred and two as is inconsistent herewith is hereby repealed.

SECTION 3. This act shall take effect upon its passage. [Approved April 26, 1909.]

Unit of measure for gas. 1861, 168, § 5. P. S. 61, § 8.

SECTION 8. The unit of measure for the sale of illuminating gas by meter shall be the cubic foot, containing sixty-two and three hundred and twenty-one one-thousandths pounds avoirdupois weight of distilled or rain water, weighed in air of the temperature of sixty-two degrees, Fahrenheit scale, the barometer being at thirty inches.

Test gas holders and meters to be provided. 1861, 161, § 8. P. S. 61, § 10. Substitute. 1909, 483, § 1.

[SECTION 9. Every gas light company with a capital paid in of one hundred thousand dollars or more and every maker and vendor of meters shall set up at some convenient place upon their premises a gas holder containing five or more cubic feet, which shall be tested and, if correct, stamped and sealed, and by means of which meters shall be tested at the average pressure at which gas is supplied in the city or town in which they are to be used, attention being paid to the temperature of the room where the trial is made. Every gas light company shall provide a test meter, of a construction approved by the inspector and stamped by him, which shall be used in cities and towns in which no test gas holders are provided or if providing by a gas holder is impracticable or inconvenient. In the examination of a meter, the inspector shall see that it is of an approved principle, shall give particular attention to the measure of the dial plate and shall prove the meter when set level, and that it is capable of accurately passing gas at the rate of six cubic feet an hour for each burner which the manufacturer has stamped it to register. A dry meter shall not be stamped correct if it varies more than two per cent from the standard measure, and a wet meter shall not be stamped correct if it is capable of registering more than two per cent against the consumer or more

than five per cent against the company. The inspector shall keep at his office a correct record of all meters inspected by him, with their proof at the time of inspection, which shall be open at all times for examination by the officers of any gas light company in the commonwealth.]

Section 9. Every gas light company with a capital paid in of one hundred thousand dollars or more, and every other gas light company if required by the board of gas and electric light commissioners, and all makers and vendors of meters shall set up at some convenient place upon their premises one or more meter provers of a size and type approved by the board and tested and calibrated by the board, by means of which meters may be tested. A meter shall not be stamped correct if it varies more than two per cent from the standard measure. The board shall keep a correct record of all meters examined by its inspectors with their proof at the time of inspection, which shall be open at all times for examination by the officers of any gas light company in the commonwealth.

Certain gas light companies to provide meter provers, etc. 1909, 483, § 1.

SECTION 10. A gas company providing a meter for measuring gas supplied to a customer which has not been duly sealed and stamped shall be punished by a fine of five dollars for every such meter in use, payable to the city or town in which the meter is situated.

Meters to be stamped. 1861, 168, § 6. 1880, 230, § 3. P. S. 61, § 11.

SECTION 11. Meters in use shall be tested by the inspector or by one of his assistants or a deputy on the request of the consumer or of the gas light company, in the presence of the consumer if desired, and with sealed apparatus. If he finds that the meter is correct, the person requesting the inspection shall pay the fees for such inspection and the expense of removing the meter for the purpose of being tested, and the re-inspection shall be stamped on the meter. If he finds that the meter is incorrect, the gas light company shall pay such expenses and shall furnish a new meter without charge to the consumer.

Testing of meters in use. 1861, 168, § 9. P. S. 61, § 12.

SECTION 12. Meters for measuring gas supplied to consumers shall register the quantity of gas passing through them in cubic feet so that the number of cubic feet of gas consumed can be easily ascertained by the consumer thereof. No meter shall be used which may confuse or deceive the consumer in ascertaining the price he pays per thousand cubic feet or the number of cubic feet consumed. No charge for the use of a meter during any portion of

Meters to register plainly. 1886, 346, § 6.

twelve consecutive months shall be made if the consumer during said time uses gas to the value of seven dollars.

Gas companies to furnish photometer. 1880, 230, § 4. P. S. 61, § 13. 1885, 240, § 1. Substitute. 1909, 483, § 2.

[SECTION 13. Every gas light company which annually manufactures more than fifteen million cubic feet of gas, made and sold for illuminating purposes, shall provide a suitable room, at least a quarter of a mile from the gas works, containing a disc photometer of a construction approved by the inspector, which shall be open to the inspector and his assistants on every working day from eight o'clock in the morning until six o'clock in the afternoon.]

Disc photometers to be provided, etc. 1909, 483, § 2.

Section 13. Every gas light company which annually manufactures or sells more than fifteen million cubic feet of gas shall, when required by the board of gas and electric light commissioners, provide and maintain a suitable room at least a quarter of a mile from the gas works with a disc photometer and its appurtenances of a construction approved by the board, which shall be open to the inspector and assistant inspectors on every working day from eight o'clock in the morning until six o'clock in the afternoon.

Inspection of gas by photometer. 1861, 168, § 10. 1880, 230, § 5. P. S. 61, § 14. 1885, 240, § 1. 1886, 250. 1890, 252. 1892, 67. [1 Op. A. G. 550.] Amended. 1903, 464. Substitute. 1909, 483, § 3.

[SECTION 14. The gas of every company which supplies more than fifty consumers, except gas made and used exclusively for heating, cooking, chemical and mechanical purposes, shall be inspected at least twice a year, [and once additionally for every six million cubic feet of gas supplied by each company; but not oftener than once a week.] and as much oftener as the board of gas and electric light commissioners may determine. The gas of every company supplying not more than three hundred million cubic feet annually shall be inspected at least once for every six million cubic feet supplied, and the gas of every company supplying more than three hundred million cubic feet annually shall be inspected at least once a week. All such inspections shall be made by the inspector or one of his assistants, and one-fourth at least of all such inspections shall be made by the inspector. The gas shall be tested for illuminating power by means of a disc photometer and, during such test, shall be burned from the burner best adapted to it, which is at the same time suitable for domestic use, and at as near the rate of five feet an hour as is practicable. If the gas of any company is found on three consecutive inspections or on three inspections made within a period of thirty consecutive days, to give less light than sixteen standard English candles, or to contain more than

twenty grains of sulphur or ten grains of ammonia per hundred cubic feet of gas, or any sulphuretted hydrogen, a fine of one hundred dollars shall be paid by such company to each city or town supplied by it. If during the test the consumption of gas varies from five feet an hour, or the candle from one hundred and twenty grains an hour, a proportionate correction shall be made for the candle power. *Upon such complaint and after such notice and hearing as are provided for in section thirty-four of chapter one hundred and twenty-one of the Revised Laws the board of gas and electric light commissioners may require a company to supply such a gas as will give, when tested in the manner prescribed in this section, a light equivalent to such number of standard English candles, not less than sixteen, as said board may determine.]*

Section 14. *The gas of every company which supplies more than fifty consumers, except gas made and used exclusively for heating, cooking, chemical and mechanical purposes, shall be inspected at least twice a year and as much oftener as the board of gas and electric light commissioners may determine. The gas shall be tested for illuminating power by means of a disc photometer and, during such test, shall be burned from the burner best adapted to it, which is at the same time suitable for domestic use, and at as near the rate of five feet an hour as is practicable. The board of gas and electric light commissioners shall, for the purpose of establishing a standard of purity for gas, and after a public hearing, determine how many grains of sulphur and ammonia per hundred cubic feet of gas may be permitted, and the board shall have power to change such standards from time to time, after a public hearing; but not more than thirty grains of sulphur per hundred cubic feet and no sulphuretted hydrogen shall be allowed.*

*Inspection
of gas, etc.
1909, 453,
§ 3.*

If the gas of any gas company or of any city or town supplying gas is found on three consecutive inspections, or on three inspections made within a period of thirty consecutive days, to give less light than sixteen standard English candles, or upon such averaging of inspections as the board may prescribe, to be below the standard of purity fixed under this act, unless such defect is in the opinion of the board due to unavoidable cause or accident, a fine of one hundred dollars shall be paid by such company, city or town into the treasury of the commonwealth.

If during the test the consumption of gas varies from five feet an hour, or the candle from one hundred and twenty grains an hour, a proportionate correction shall be made for the candle power. Upon such complaint and after such notice and hearing as are provided for by section thirty-four of chapter one hundred and twenty-one of the Revised Laws the board may require a company to supply such gas as will give, when tested in the manner prescribed in this section, a light equivalent to such number of standard English candles, not less than sixteen, as said board may determine.

Entry on premises to examine meters, etc. 1861, 168, § 11. P. S. 61, § 15.

SECTION 15. An officer or servant of a gas light company, who is duly authorized in writing by the president, treasurer, agent or secretary of said company, may at any reasonable time enter any premises which are supplied with gas by such company for the purpose of examining or removing the meters, pipes, fittings, and works for supplying or regulating the supply of gas and of ascertaining the quantity of gas consumed or supplied; and if any person, directly or indirectly, prevents or hinders such officer or servant from so entering such premises or from making such examination or removal, such officer or servant may make complaint to any court or magistrate authorized to issue criminal process who may thereupon issue a warrant directed to the sheriff or to either of his deputies, or to a constable of the city or town in which such company is located, commanding him to take sufficient aid and repair to said premises accompanied by such officer or servant, who shall examine such meters, pipes, fittings and works for supplying or regulating the supply of gas, and ascertain the quantity of gas consumed or supplied therein, and shall, if required, remove any meters, pipes, fittings and works belonging to said company.

Company may shut off gas for arrears. 1861, 168, § 12. P. S. 61, § 16. 1894, 316. 199 Mass. 325.

SECTION 16. A gas or electric light company may stop gas or electricity from entering the premises of any person who neglects or refuses to pay the amount due therefor or for the use of the meter or other article hired by him from such company; and, for such purpose, the officers, servants or workmen thereof may, after twenty-four hours' notice, enter his premises between the hours of eight in the forenoon and four in the afternoon and separate and take away such meter or other property of the company, and may disconnect any meter, pipe, wires, fittings or other

works, whether they are property of the company or not, from the mains, pipes or wires of the company.

SECTION 17. A gas or electric light company shall not refuse to supply gas or electricity for any building or premises to a person applying therefor who is not in arrears to it for any gas or electricity previously supplied to him because a bill for gas or electricity remains unpaid by a previous occupant of such building or premises.

Refusal of supply restricted.
1894, 299.
199 Mass. 325.

SECTION 18. Whoever wilfully or fraudulently injures or suffers to be injured any meter, pipes or fittings which belong to a gas light company, or prevents a meter from duly registering the quantity of gas supplied through the same, or in any way hinders or interferes with its proper action or just registration, or fraudulently burns or wastes the gas of such company, or whoever attaches a pipe to a main or pipe belonging to a gas light company or, without the written consent of such company, uses or causes to be used any gas supplied by it, unless the same passes through a meter set by the company, shall for every such offence forfeit to the company not more than one hundred dollars and the damage sustained thereby.

Penalty for injuring gas meter, etc.
1861, 168,
§§ 13, 14.
P. S. 61, §§ 17, 18.
4 Allen, 308.

[SECTION 19. The provisions of this chapter shall apply to all companies which manufacture or distribute gas for sale, and the term "gas company" shall include all persons who own or operate works for the manufacture and sale of gas for heating or illuminating purposes.]

Application of chapter.
1861, 168,
§ 15.
P. S. 61, § 19.
1886, 346, § 7.
Substitute.
1909, 483,
§ 4.

Section 19. The provisions of this chapter shall apply to all persons, corporations and municipalities which manufacture or distribute gas for sale and the terms "gas company" and "gas light company" shall be construed as including all persons, companies and municipalities owning or operating works for the manufacture and sale of gas for heating or illuminating purposes.

Application of act.
1909, 483,
§ 4.

CHAPTER 110.

OF MANUFACTURING AND OTHER CORPORATIONS.

(Omitting sections which expressly do not apply to gas or electric companies.)

- SECTION 1. — Commissioner of Corporations.
 SECTIONS 2, 3. — Corporations Governed by this Chapter.
 SECTIONS 4-21. — Formation of Corporations.
 SECTIONS 22-68. — Powers and Liabilities.
 SECTIONS 69, 70. — Co-operative Associations.
 SECTION 71. — Fishing Associations. (Omitted.)
 SECTIONS 72-75. — Swine Slaughtering Associations. (Omitted.)
 SECTIONS 76-81. — Gas, Pneumatic, etc., Companies.
 SECTIONS 82, 83. — Confirmation of Organization or Proceedings.
 SECTIONS 84, 85. — Penalties for Omissions to File Certificates, etc.
 SECTION 86. — Fees.

COMMISSIONER OF CORPORATIONS.

Commissioner of corporations.
 1870, 224,
 § 61.
 1879, 288,
 § 1.
 P. S. 106, § 1.
 1900, 261.
 180 Mass. 329,
 514.
 184 Mass. 567.

SECTION 1. The commissioner of corporations shall be sworn to the faithful performance of his duties. He shall examine the certificates submitted to him under the provisions of these statutes, and make suitable indorsements upon such as conform to the requirements of law. He shall keep a record of the names of corporations which submit certificates to his inspection, with the date of inspection and of his certificates when given, and the result in brief of his inspection. He shall bring instances of neglect or of omission on the part of corporations to comply with the provisions of this chapter to the knowledge of the attorney general, for the enforcement of the penalties therefor. He shall receive no fees for the performance of his duties. If a vacancy exists or if the commissioner is absent from his office, the first clerk shall perform the duties of the commissioner, and legal process served upon said clerk shall have the same force and effect as if served upon the commissioner.

CORPORATIONS GOVERNED BY THIS CHAPTER.

Corporations governed by this chapter.
 R. S. 38, § 1.
 G. S. 60, § 1.
 1870, 224,
 §§ 13, 64, 65.
 1874, 295,
 § 1.
 P. S. 106,
 § 3; 107, § 1.

SECTION 2. All corporations organized or chartered under or subject to the provisions of this chapter, of chapter one hundred and six or one hundred and seven of the Public Statutes, of the statutes in amendment thereof or in addition thereto, of chapter two hundred and ninety-five of the statutes of the year eighteen hundred and seventy-four, of chapter two hundred and twenty-four of the stat-

utes of the year eighteen hundred and seventy, of the statutes in amendment thereof or in addition thereto, of chapter one hundred and eighty-seven or two hundred and ninety of the statutes of the year eighteen hundred and sixty-six, of chapter sixty or sixty-one of the General Statutes, of chapter one hundred and thirty-three of the statutes of the year eighteen hundred and fifty-one, or of chapter thirty-eight of the Revised Statutes, corporations established by special charters subsequent to the twenty-third day of February in the year eighteen hundred and thirty for the purpose of carrying on any kind of manufacture, and those which in compliance with law have voted to adopt the provisions of chapter fifty-three of the statutes of the political year eighteen hundred and twenty-nine, of chapter thirty-eight of the Revised Statutes, of chapter sixty of the General Statutes, of chapter two hundred and twenty-four of the statutes of the year eighteen hundred and seventy, or of chapter one hundred and six of the Public Statutes, and have performed the things in that behalf prescribed in the several statutes so adopted, and those which shall comply with the provisions of the following section and the respective officers and stockholders of all such corporations shall be subject to the provisions of this chapter.

SECTION 3. If any manufacturing corporation chartered before the twenty-third day of February in the year eighteen hundred and thirty, at a legal meeting called for the purpose, accepts the provisions of this chapter, and causes to be recorded in the registry of deeds in the county or district in which such corporation is established a certificate, signed by its president, treasurer, clerk and a majority of its directors, stating the amount of its capital actually paid in, and, if any part thereof has been divided or withdrawn, the amount so divided and withdrawn, and also the amount of its debts and credits, and an estimate of the value of its real and personal estate for the purpose of carrying on its business at the time of making such certificate; and if such officers make oath that they have carefully examined the records and accounts of said corporation, and have faithfully estimated the value of its property and funds, and that said certificate signed by them is true according to their best knowledge and belief; then such corporation with its members and officers shall be sub-

Corporations
which may
become sub-
ject to this
chapter.
1829, 53,
§ 13.
R. S. 38,
§§ 26, 27.
G. S. 60,
§§ 28, 29,
1870, 224,
§ 65.
1874, 349,
§ 1, cl. 4.
P. S. 106, § 4.

ject to the provisions of this chapter applicable to such corporations; and no stockholder therein shall be liable for any debts of the corporation contracted after the recording of such certificate, except for the causes and in the manner hereinafter provided.

FORMATION OF CORPORATIONS.

Purposes, Number of Associates and Limits of Capital Stock.

Formation of corporations.
1851, 133, § 1.
1852, 9.
G. S. 61, § 1.
1870, 224, § 1.
P. S. 106, § 6.
11 Gray, 139.
15 Gray, 211, 494.

SECTION 4. Any persons, to the number hereinafter provided, who associate themselves by an agreement in writing hereinafter described with the intention of forming a corporation for any purpose hereinafter specified, upon complying with the provisions of section twenty, shall be and remain a corporation.

12 Allen, 273, 362.

98 Mass. 98.

101 Mass. 381, 385.

[1 Op. A. G. 47, 185.]

— for mechanical, mining or manufacturing business.
1851, 133, §§ 1, 2.
1855, 68, § 1.
G. S. 61, § 1.
1870, 224, § 2.
1871, 110, § 1.
1875, 177, § 3.
P. S. 106, § 7.
1899, 199, § 1.
101 Mass. 385.
173 Mass. 254.

SECTION 5. For the purpose of carrying on any mechanical or manufacturing business, except that of distilling or manufacturing intoxicating liquors, three or more persons may associate themselves, with such capital, not less than five thousand dollars, as is fixed in the agreement of association, and, for the purpose of carrying on any mining business, three or more persons may associate themselves, with a capital of not less than five thousand nor more than one million dollars.

— for co-operative trade, etc.
1866, 290, § 1, 5.
1870, 224, § 3.
1879, 210.
P. S. 106, § 9.

SECTION 7. For the purpose of co-operation in carrying on any business authorized in the two preceding sections, and of co-operative trade, seven or more persons may associate themselves, with a capital of not less than one thousand nor more than one hundred thousand dollars.

— for making gas and furnishing steam and hot water.
1855, 146, § 1.
1857, 276, § 1.
G. S. 61, § 15.
1870, 224, § 5.
1879, 202, § 1.
P. S. 106, § 11.
1885, 240, § 1.
1891, 189, § 1.
1893, 397.
186 Mass. 373.
Amended.
1910, 346.

SECTION 9. For the purpose of making, selling and distributing gas for light, or for heating, cooking, chemical and mechanical purposes, or for the purpose of generating and furnishing steam or hot water for heating, cooking and mechanical power, or for the purpose of generating and furnishing hydrostatic or pneumatic pressure for mechanical power, in any city or town, or for any two or more of said purposes, ten or more persons may associate themselves, with a capital of not less than [five] one thousand nor more than five hundred thousand dollars.

SECTION 13. For the purpose of carrying on any lawful business not mentioned in the eight preceding sections, except distilling or manufacturing intoxicating liquors, buying and selling real estate, banking, insurance, and any other business the formation of corporations for which is otherwise regulated by these statutes, three or more persons may associate themselves, with a capital of not less than one thousand nor more than one million dollars.

Formation of corporations for any other lawful business, except, etc. 1874, 165. P. S. 106, § 14. 173 Mass. 254. [1 Op. A. G. 153, 275, 304.]

SECTION 14. Any or all of the creditors of any corporation which exists by authority of this commonwealth and is organized or chartered for any purpose designated in this chapter, which has been adjudged bankrupt or insolvent or has made an assignment of its property for the benefit of its creditors, or any or all persons for whose benefit such corporation has assigned the whole or any part of its property, and such other person or persons in either case as they may select, may associate themselves for the purpose of forming a corporation to acquire the whole or any part of the property of such debtor corporation and to carry on the business previously authorized to be carried on by it.

Corporation to take up business of bankrupt, etc., corporation. 1879, 275, § 1, 4. P. S. 106, § 15.

Agreement, Name and Organization.

SECTION 15. The agreement of association shall state that the subscribers thereto associate themselves with the intention of forming a corporation, the corporate name assumed, the purpose for which it is formed, the city or town, which shall be in this commonwealth, in which it is established or located, the amount of its capital stock and the par value and number of its shares.

Contents of agreement. 1851, 133, § 3. G. S. 61, § 2. 1866, 290, § 2. 1870, 224, § 7. P. S. 106, § 16. 11 Gray, 139. 97 Mass. 494.

Revised Laws, Chapter 109, § 7.

SECTION 7. A corporation which is organized under general laws or created by special charter for the purpose of carrying on a mechanical or manufacturing business in a city or town named in its agreement of association or charter may extend or remove its business or any part thereof to any other city or town in this commonwealth, and may purchase, hold and convey so much real and personal estate in such other city or town as may be necessary for the purpose of carrying on its business therein. (But see §§ 25, 26 and 27 of chapter 121 of the Revised Laws as to gas and electric companies.)

Change of location. 1877, 67. P. S. 105, § 7. Affected. 1910, 197.

Acts of 1910, Chapter 197.

An Act to limit the Authority of a Gas or Electric Light Company to change its Location.

R. L. 109,
§ 7, not to
apply to cer-
tain corpora-
tions.

Proviso.

SECTION 1. The provisions of section seven of chapter one hundred and nine of the Revised Laws shall not apply to a corporation organized for the purpose of making or selling gas or electricity: *provided, however*, that the board of gas and electric light commissioners may, after notice and a public hearing in each case, authorize such a corporation to carry on the business for which it was incorporated in a city or town other than that named in its agreement of association or charter, with all the rights, powers and privileges and subject to all the duties and liabilities set forth in all general laws now or hereafter in force applicable to such corporations.

SECTION 2. This act shall take effect upon its passage. [*Approved March 11, 1910.*]

Corporate
name.
1851, 133,
§ 6.
G. S. 61, § 1.
1870, 224, § 8.
1872, 375, § 5.
1875, 225.
1877, 224, § 3.
P. S. 106,
§ 17; 117,
§ 3; 119,
§ 28.
1883, 98, § 1.
1887, 214,
§ 30.
1888, 413,
§ 27.
1894, 522,
§ 30.
151 Mass. 560.

SECTION 16. Any name may, subject to the provisions of section eight of chapter one hundred and nine, be assumed by a corporation. If organized for the purposes mentioned in sections seven or eight, or under the provisions of chapter one hundred and fourteen or section thirty of chapter one hundred and eighteen, or if subject to any of the provisions of chapter one hundred and sixteen, the words "co-operative" or "fishing" or "co-operative bank" or "insurance", or "mutual insurance" if organized upon the mutual principle, or "trust company", respectively, shall form part of the name.

Revised Laws, Chapter 109, §§ 8, 9, 10.

Corporate
name.
1891, 257.
149 Mass. 436.

SECTION 8. A corporation which is organized under the general laws may assume any name which, in the judgment of the commissioner, indicates that it is a corporation; but it shall not assume the name of another corporation established under the laws of this commonwealth, or of a corporation, firm, association or person carrying on business in this commonwealth, at the time of such organization or within three years prior thereto, or assume a name so similar thereto as to be liable to be mistaken for it, except with the consent in writing of said existing corporation, firm or association or of such person previously filed with the commissioner of corporations. The supreme judicial court or the superior court shall have jurisdiction in equity, upon the

application of any person interested or affected, to enjoin such corporation from doing business under a name assumed in violation of the provisions of this section, although its certificate of organization may have been approved and a certificate of incorporation may have been issued to it.

[SECTION 9. Upon the application of any corporation, authorized by a vote of two-thirds of the stockholders present and voting at a meeting called for the purpose, the commissioner of corporations may, after public notice of such application, authorize such corporation to change its name. If it has no capital stock, the application may be authorized by a two-thirds vote of the persons legally qualified to vote in meetings of the corporation present and voting on the question of the change of name. The approval of the insurance commissioner shall be required for applications by corporations which are subject to the provisions of chapters one hundred and eighteen, one hundred and nineteen and one hundred and twenty.]

Change of name.
1891, 360,
§§ 1, 2, 6.
1892, 198,
201.
1895, 104.
1898, 474, § 9.
1899, 164;
442, § 9.
1901, 422,
§ 9.
Repealed.
1908, 163.

[SECTION 10. A certified copy of such authorization and a certificate of the vote of the corporation, signed and sworn to by the president, treasurer and a majority of the directors, or if it has no such officers, by its presiding and financial officers and a majority of its other officers having the powers of directors, shall be filed in the office of the secretary of the commonwealth. The commissioner shall require public notice to be given of the change so authorized; and upon receipt of proof thereof the secretary of the commonwealth may grant a certificate of the name which the corporation shall bear, which, subject to the provisions of section eight, shall thereafter be its legal name.]

— certificate of, to be filed with secretary.
1891, 360,
§§ 3, 6.
Repealed.
1908, 163.

Acts of 1908, Chapter 163.

An Act relative to the Changing of Names of Corporations.

SECTION 1. Every corporation organized under general or special laws of this commonwealth, except corporations subject to the provisions of chapter four hundred and thirty-seven of the acts of the year nineteen hundred and three, and acts in amendment thereof and in addition thereto, and except corporations subject to the provisions of chapter four hundred and sixty-three of the acts of the year nineteen hundred and six, and acts in amendment thereof and in addition thereto, may at a meeting duly called for the purpose, by the vote of two thirds of all of its stock, or if two or more classes of stock have been issued, by two thirds of each class of stock outstanding and entitled to vote, or in case such corporation has no capital stock, by a vote of two

Regulations concerning changes of names of corporations.

- thirds of the persons legally qualified to vote in meetings of the corporation, or by a larger vote if its agreement of association or by-laws shall so require, change its name. Articles of amendment signed and sworn to by the president, treasurer and a majority of the directors or other officers having the powers of directors, shall within thirty days after such meeting be prepared, setting forth such amendment, and stating that it has duly been adopted by the stockholders. Such amendment shall be submitted to the commissioner of corporations who shall examine it, and if he finds that it conforms to the requirements of law, he shall so certify and endorse his approval thereon. Thereupon the secretary of the commonwealth shall direct the officers of the corporation to publish in such form as he may see fit, in a newspaper published in the county in which the corporation has its principal office or place of business, notice of such change of name. When the secretary of the commonwealth is convinced that such notice has been published as required by him, he shall upon the payment of a fee of one dollar grant a certificate of the name which the corporation shall bear, which name shall thereafter be its legal name, and the secretary of the commonwealth shall cause the article of amendment and the endorsements thereon to be recorded in his office. In the case of corporations which are subject to the provisions of chapter one hundred and eighteen, one hundred and nineteen, and one hundred and twenty of the Revised Laws, and of all acts in amendment thereof and in addition thereto, the approval of the insurance commissioner shall be required before the commissioner of corporations approves the article of amendment. No article of amendment changing the name of any corporation shall take effect until it has been filed in the office of the secretary of the commonwealth as aforesaid.
- Notice of change of name to be published.**
- Certificate of new name to be issued.**
- Approval of change of name.**
- When to take effect.**
- Repeal.**
- Rights and liabilities under new name.** 1891, 360, § 4.
- SECTION 2.** All acts and parts of acts inconsistent herewith are hereby repealed.
- SECTION 3.** This act shall take effect upon its passage. [*Approved March 3, 1908.*]
- Revised Laws, Chapter 109, § 11.**
- SECTION 11.** A corporation shall have the same rights, powers and privileges and be subject to the same duties, obligations and liabilities under its new name as before its name was changed, and may sue and be sued by its new name; but any action brought against it by its former name shall not be defeated on that account, and, on motion of either party, the new name may be substituted therefor.

SECTION 17. The first meeting shall be called by a notice signed by one or more of the subscribers to such agreement, stating the time, place and purpose of the meeting, a copy of which notice shall, seven days at least before the day appointed for the meeting, be given to each subscriber, or left at his usual place of business or residence, or deposited in the post office, postpaid, and addressed to him at his usual place of business or residence. Whoever gives such notice shall make affidavit of his doings, which, with a copy of the notice, shall be recorded in the records of the corporation.

First meeting, how called and notified. 1855, 478, § 2. G. S. 61, § 3. 1866, 290, § 4. 1870, 224, § 9. P. S. 106, § 18.

SECTION 18. The subscribers to the agreement of association shall hold the franchise until the organization has been completed; and, unless it is otherwise provided in such agreement, each subscriber who elects to take such shares at the first meeting may take such proportion of the share of the capital stock as the number of subscribers to the agreement bears to the whole number of shares, or any part of such proportion, upon paying the assessments thereon as called for by the corporation. All shares not so taken shall be disposed of as the corporation determines.

Subscribers to hold franchise; distribution of shares. 1870, 224, § 30. P. S. 106, § 19. 101 Mass. 385.

SECTION 19. At such first meeting, including any necessary or reasonable adjournment, an organization shall be effected by the choice by ballot of a temporary clerk, who shall be sworn, and by the adoption of by-laws, and the election, in the manner provided in section twenty-three, of directors, treasurer, clerk and such other officers as the by-laws may provide; but at such first meeting no person shall be eligible as a director who has not subscribed the agreement of association. The temporary clerk shall make and attest a record of the proceedings until the clerk has been chosen and sworn, including a record of such choice and qualification.

Organization; choice of officers; records. 1851, 133, §§ 4, 5. G. S. 61, § 5. 1870, 224, § 10. P. S. 106, § 20.

SECTION 20. The president, treasurer and a majority of the directors, shall forthwith make, sign and swear to a certificate setting forth a true copy of the agreement of association with the names of the subscribers thereto, the date of the first meeting and the successive adjournments thereof, if any, and shall submit such certificate and also the records of the corporation to the commissioner of corporations, who shall examine the same, and who may require such other evidence as he may judge necessary. If it appears that the requirements of the preceding sections

Certificate of organization to be filed. 1851, 133, § 4. 1855, 68, § 2. 1857, 276, § 1. G. S. 61, § 8. 1870, 224, § 11. P. S. 106, § 21. 151 Mass. 560.

preliminary to the establishment of the corporation have been complied with, the commissioner shall so certify and approve the certificate by his indorsement thereon. Such certificate shall thereupon be filed by said officers in the office of the secretary of the commonwealth, who, upon payment of the fee hereinafter provided, shall cause the same with the indorsement thereon to be recorded, and shall thereupon issue a certificate in the following form:—

COMMONWEALTH OF MASSACHUSETTS.

Be it known that whereas [the name of the subscribers to the agreement of association] have associated themselves with the intention of forming a corporation under the name of [the name of the corporation], for the purpose [the purpose declared in the agreement of association], with a capital of [the amount of capital fixed in the agreement of association], and have complied with the provisions of the statutes of this commonwealth in such case made and provided, as appears from the certificate of the president, treasurer and directors of said corporation, duly approved by the commissioner of corporations and recorded in this office: now, therefore, I [the name of the secretary], secretary of the commonwealth of Massachusetts, do hereby certify that said [the names of the subscribers to the agreement of association], their associates and successors, are legally organized and established as, and are hereby made, an existing corporation under the name of [name of the corporation], with the powers, rights and privileges, and subject to the limitations, duties and restrictions, which by law appertain thereto.

Witness my official signature hereunto subscribed, and the seal of the commonwealth of Massachusetts hereunto affixed, this day of in the year .
[the date of execution of the certificate.]

The secretary shall sign the same and cause the seal of the commonwealth to be thereto affixed, and such certificate shall have the force and effect of a special charter and shall be conclusive evidence of the existence of such corporation. He shall also cause a record of such certificate to be made, and a certified copy of such record may be given in evidence with like effect as the original certificate.

Certain corporations may file certificate. 1870, 224, § 12. P. S. 106, § 22.

SECTION 21. Any corporation organized under the provisions of chapter one hundred and thirty-three of the acts of the year eighteen hundred and fifty-one, chapter sixty-one of the General Statutes, or chapter one hundred and

eighty-seven or two hundred and ninety of the acts of the year eighteen hundred and sixty-six, which at a meeting of its stockholders regularly notified for that purpose votes to comply with the provisions of this section, may submit to the commissioner of corporations a certificate signed and sworn to by its president, treasurer, clerk and a majority of its directors, setting forth a copy of its articles of agreement, with the names of the subscribers thereto, and a copy of the vote aforesaid, and produce evidence of its regular organization according to law or of confirmatory action under the provisions of this chapter, of sections seventy-nine and eighty of chapter one hundred and six of the Public Statutes, of section sixty-six of chapter two hundred and twenty-four of the acts of the year eighteen hundred and seventy, of section four of chapter sixty-one of the General Statutes, or of section three of chapter four hundred and seventy-eight of the acts of the year eighteen hundred and fifty-five.

The commissioner shall thereupon examine such certificate and evidence of organization; and if it appears that the provisions of law have been complied with, he shall so certify and approve the certificate by his indorsement thereon. The secretary of the commonwealth shall, upon the same being deposited in his office, and upon payment of the fee hereinafter provided, cause the same, with the indorsement thereon, to be recorded, and shall issue a certificate in the following form:—

COMMONWEALTH OF MASSACHUSETTS.

Be it known that whereas [the names of the original subscribers] formerly associated themselves with the intention of forming a corporation under the name of [the name of the corporation], for the purpose [the purpose declared in the articles of agreement], under the provisions of [the designation of the statute under the provisions of which organization was effected], with a capital of [the amount of the capital stock as it stands fixed by the corporation at the date of the certificate], and the provisions of the statutes of this commonwealth in such case made and provided have been complied with, as appears from the certificate of the president, treasurer, and directors of said corporation, duly approved by the commissioner of corporations and recorded in this office: now, therefore, I [the name of the secretary], secretary of the commonwealth of Massachusetts, do hereby certify that said [name of the corporation] is legally organized and es-

tablished as an existing corporation, with the powers, rights and privileges, and subject to the limitations, duties and restrictions, which by law appertain thereto.

Witness my official signature hereunto subscribed, and the seal of the commonwealth of Massachusetts hereunto affixed, this day of _____ in the year _____. [the date of execution of the certificate.]

The secretary shall sign the same and cause the seal of the commonwealth to be thereto affixed, and such certificate shall be conclusive evidence of the existence of such corporation at the date of such certificate. He shall also cause a record of such certificate to be made, and a certified copy of such record may be given in evidence with like effect as the original certificate.

POWERS AND LIABILITIES.

By-Laws, Officers, etc.

Officers.
1808, 65, § 1.
1829, 53, § 1.
R. S. 38,
§§ 2, 3.
G. S. 60,
§§ 3, 5.
1866, 290, § 3.
1870, 224,
§§ 15, 17.
1874, 349,
§ 1, cl. 1.

SECTION 22. The business of every corporation which is subject to the provisions of this chapter shall be managed and conducted by a president, a board of not less than three directors, a clerk, treasurer and such other officers and agents as the corporation authorizes for that purpose. The directors shall choose one of their number as president. P. S. 106, §§ 23, 25. 147 Mass. 224. 190 Mass. 478.

Officers, how
chosen.
1808, 65, § 1.
1829, 53, § 1.
R. S. 38,
§§ 3-5.
G. S. 60, § 4.
1870, 224,
§ 16.
P. S. 106,
§ 24.

SECTION 23. The directors, clerk and treasurer shall be chosen annually by the stockholders by ballot, and shall hold office for one year and until others are chosen and qualified in their stead. The manner of choosing or appointing all other agents and officers, and of filling all vacancies, shall be prescribed by the by-laws. 8 Cush. 93. 7 Gray, 1. 15 Gray, 211. 179 Mass. 161.

Clerk.
Treasurer.
Bond.
1808, 65, § 1.
1829, 53, § 1.
R. S. 38, § 4.
G. S. 60, § 6.
1870, 224,
§ 18.
P. S. 106, § 26.
15 Gray, 211.

SECTION 24. The clerk shall be sworn, shall record all votes in a book to be kept for that purpose and shall perform all other duties assigned to him. The treasurer shall give bond for the faithful performance of his duty in such sum and with such sureties as shall be required by the by-laws.

Voting by
proxy.
R. S. 38, § 7.
G. S. 60,
§ 19.
1870, 224,
§ 19.
P. S. 106,
§ 27.

SECTION 25. Absent stockholders may vote at all meetings by proxy, authorized in writing, which, if the maker thereof resides in the United States, shall be executed and dated within six months previous to the meeting at which it is used.

SECTION 26. Every such corporation may determine by its by-laws what number of stockholders shall attend, either in person or by proxy, or what number of shares or amount of interest shall be represented at any meeting, to constitute a quorum. If the quorum is not so determined, a majority in interest of the stockholders shall constitute a quorum.

Quorum of stockholders.
1829, 53, § 15.
R. S. 38, § 7.
G. S. 60, § 7.
1870, 224, § 20.
P. S. 106, § 28.

Revised Laws, Chapter 109, §§ 2, 3, 4, 5, 6, 15, 16, 17.

SECTION 2. Corporations now existing shall continue to exercise and enjoy their powers and privileges according to their respective charters and to the laws now in force, and shall continue subject to all the liabilities to which they are now subject, except so far as said powers, privileges and liabilities are modified or controlled by the provisions of these statutes.

Existing corporations to continue.
1826, 137, § 5.
1829, 53, §§ 16, 17.
R. S. 38, §§ 1, 36.
G. S. 60, § 1; 68, § 40.
P. S. 105, § 2.
Charters subject to alteration or repeal.
1830, 81.
R. S. 38, § 36; 44, § 23.
G. S. 68, § 41.
P. S. 105, §§ 2, 3.
23 Pick. 334.
6 Cush. 424.
9 Cush. 604.
4 Gray, 227.
13 Gray, 239.
15 Gray, 106.
4 Allen, 198.
5 Allen, 230.
11 Allen, 268.
13 Allen, 29.
103 Mass. 254.
104 Mass. 446.

SECTION 3. Every act of incorporation passed since the eleventh day of March in the year eighteen hundred and thirty-one shall be subject to amendment, alteration or repeal by the general court. All corporations which are organized under general laws shall be subject to such laws as may be hereafter passed affecting or altering their corporate rights or duties or dissolving them. Corporations shall, notwithstanding such repeal or dissolution, be subject to the provisions of sections fifty-three and fifty-four. Such laws of amendment, alteration or repeal or such dissolution shall not take away or impair any remedy which may exist by law consistently with said sections against the corporation, its members or officers, for a liability previously incurred.

109 Mass. 103, 506.
118 Mass. 290, 561.

123 Mass. 32.
147 Mass. 569.

198 Mass. 421.

SECTION 4. Every corporation, except as otherwise expressly provided, may, in its corporate name, sue and be sued, appear, prosecute and defend to final judgment and execution; have a common seal, which it may alter at pleasure; elect in such manner as it may determine all necessary officers, fix their compensation and define their duties and obligations; and make by-laws and regulations for its own government, the due and orderly conducting of its affairs and the management of its property.

General powers.
1808, 65, § 1.
1829, 53, § 1.
1833, 83, § 1.
R. S. 38, § 6; 44, § 1.
G. S. 60, § 2; 68, § 1.
P. S. 105, § 4.
10 Mass. 91.
10 Gray, 582.

SECTION 5. Every corporation may by its by-laws, except as otherwise expressly provided, determine the manner of calling and conducting its meetings; the number of members which shall constitute a quorum; the number of shares which shall entitle the members to one or more votes; the mode of voting by proxy; the mode of selling shares for the payment of assessments; and the tenure of office of the several officers; and may annex suitable

By-laws.
1808, 65, § 1.
1829, 53, § 1.
1833, 83, § 1.
R. S. 38, § 6; 44, § 2.
G. S. 60, § 2; 68, § 7.
P. S. 105, § 5.
8 Met. 301, 325.

penalties to such by-laws, not exceeding twenty dollars for one offence; but no by-law shall be made by a corporation which is inconsistent with law.

Conveyance of land.
R. S. 44, § 6.

SECTION 6. Every corporation may convey land to which it has a legal title. G. S. 68, § 8. P. S. 105, § 6. 11 Allen, 65.

Meeting called by justice of the peace, when.
1833, 49.
R. S. 44, § 4.
G. S. 68, § 5.
P. S. 105, § 11.

SECTION 15. If, by reason of the death or absence of the officers of a corporation, or other cause, there is no person duly authorized to call or preside at a legal meeting, a justice of the peace may, upon written application of three or more of the members, issue a warrant to any one of them, directing him to call a meeting by giving such notice as had been previously required by law, and may in the same warrant direct him to preside at the meeting until a clerk is duly chosen and qualified if no officer is present legally authorized to preside.

Election of officers.
1833, 49.
R. S. 44, § 5.
G. S. 68, § 6.

SECTION 16. A corporation when so assembled may elect officers to fill vacancies, and may act upon such other business as may by law be transacted at a regular meeting. P. S. 105, § 12.

Executors, etc., may vote.
1829, 53,
§ 12.
R. S. 38, § 35.
1838, 98, § 2.

SECTION 17. An executor, administrator, guardian, conservator or trustee shall represent the shares of his trust at all meetings of the corporation, and may vote as a stockholder. G. S. 68, § 11. P. S. 105, § 13. 9 Cush. 192. 101 Mass. 398.

Capital Stock.

Stockholder to have certificate of stock.
1808, 65, § 3.
1829, 53, § 3.

SECTION 27. Each stockholder shall be entitled to a certificate of his stock, signed by the treasurer of the corporation and sealed with its seal. R. S. 38, § 10. G. S. 60, § 10. 1852, 180. 1870, 224, § 23. 1874, 349, § 1. P. S. 106, § 29.

Transfer of shares. Lost certificates.
1808, 65, § 4.
1829, 53, § 4.
R. S. 38, § 12.
1846, 45.
G. S. 60, § 13.
1870, 224,
§ 26.
P. S. 106,
§ 30.
12 Gray, 213.
8 Allen, 15.
138 Mass. 240.

SECTION 28. Shares may be transferred by the stockholder by an instrument in writing signed by him, which shall be recorded by the clerk in a book to be kept for that purpose. The purchaser named in such instrument so recorded shall, upon production thereof to the treasurer and delivery to him of the former certificate, be entitled to a new certificate. In case of the loss of a certificate, a duplicate certificate may be issued upon such reasonable terms as the directors shall prescribe.

Revised Laws, Chapter 109, §§ 32, 33, 34, 35.

LIST OF STOCKHOLDERS AND TRANSFER OF SHARES.

List of stockholders open to inspection.
1858, 144.
G. S. 68, § 10.
P. S. 105,
§ 21.

SECTION 32. The treasurer or cashier of every corporation shall keep an accurate list of its stockholders and of the number of shares owned by each, which shall at all times, upon written application by a stockholder, be exhibited for his inspection.

Such officer who refuses so to exhibit such list shall forfeit fifty dollars for each offence.

SECTION 33. Every corporation shall record the names and residences of all its stockholders, and all changes therein of which it is notified, shall issue no certificate of stock to a stockholder or purchaser of a share until he informs the corporation of his actual residence and shall pay no dividend to a stockholder whose actual residence is unknown or uncertain until he informs the corporation thereof.

Record of names and residences of stockholders. 1859, 227. G. S. 68, § 20. 1861, 120. 1864, 201, § 1. P. S. 105, § 22.

SECTION 34. Every corporation shall, within fifteen days after a request in writing by a stockholder thereof, made not less than thirty nor more than sixty days prior to the time fixed for the annual meeting of stockholders, cause a complete list of the stockholders as of the sixtieth day prior to the time so fixed, with the residence of and the number of shares belonging to each stockholder, to be made and filed in the office of the secretary of the commonwealth. The list shall be in such form as the commissioner of corporations shall require or approve, and shall be signed and sworn to by the treasurer of the corporation or by some other officer cognizant of the facts specially appointed by the corporation to make the same. If a corporation and its treasurer or other officer so specially appointed omit or neglect to cause a list of stockholders to be so made and filed, they shall each forfeit not more than one thousand dollars to be recovered in the manner provided in section eighty-four of chapter one hundred and ten.

List of stockholders to be filed with secretary. 1889, 222, § 3. [1 Op. A. G. 278.]

SECTION 35. All records of transfers of stock in any corporation which is created by the sole authority of this commonwealth shall be made and kept therein. The officer of every such corporation whose duty it is to record such transfers shall be a resident of this commonwealth at the time of his appointment; and if he ceases to be such resident, his office shall become vacant.

Records of transfers. 1847, 107. G. S. 68, § 12. P. S. 105, § 23.

Acts of 1903, Chapter 423.

An Act relative to the Transfer of Stock in Corporations.

SECTION 1. The delivery of a certificate of stock by the person named as the stockholder in such certificate or by a person entrusted by him with its possession for any purpose to a bona fide purchaser or pledgee for value, with a written transfer thereof, or with a written power of attorney to sell, assign or transfer the same, signed by the person named as the stockholder in such certificate, shall be a sufficient delivery to transfer title as against all persons; but no such transfer shall affect the right of the corpora-

Transfer of stock in corporations. 176 Mass. 442. 182 Mass. 555. See 1910, 171.

tion to pay any dividend due upon the stock, or to treat the holder of record as the holder in fact until it has been recorded upon the books of the corporation, or until a new certificate has been issued to the person to whom it has been so transferred. Such purchaser, upon delivery of the former certificate to the treasurer of the corporation, shall be entitled to receive a new certificate. Stock shall not be transferred upon the books of the corporation if any instalments thereon remain overdue and unpaid. A pledgee of stock transferred as collateral security shall be entitled to a new certificate if the instrument of transfer substantially describes the debt or duty which is intended to be secured thereby. Such new certificate shall express on its face that it is held as collateral security, and the name of the pledgor shall be stated thereon, who alone shall be liable as a stockholder, and entitled to vote thereon.

Repeal.

SECTION 2. Sections thirty-six, thirty-seven, thirty-eight and thirty-nine of chapter one hundred and nine, and, so far as they relate to the transfer of stock, section fifty-nine of chapter one hundred and eleven, section eighteen of chapter one hundred and twelve and section forty-two of chapter one hundred and twenty-three of the Revised Laws are hereby repealed.

When to take effect.

SECTION 3. This act shall take effect on the first day of August in the year nineteen hundred and three. [*Approved June 12, 1903.*]

Acts of 1910, Chapter 171.

An Act to make Uniform the Law of Transfer of Shares of Stock in Corporations.

TRANSFER OF TITLE.

Transfer of title.

SECTION 1. Title to a certificate and to the shares represented thereby shall be transferred only,

(a) By delivery of the certificate indorsed either in blank or to a specified person by the person appearing by the certificate to be the owner of the shares represented thereby, or

(b) By delivery of the certificate and a separate document containing a written assignment of the certificate or a power of attorney to sell, assign, or transfer the same or the shares represented thereby, signed by the person appearing by the certificate to be the owner of the shares represented thereby. Such assignment or power of attorney may be either in blank or to a specified person.

The provisions of this section shall be applicable although the charter or articles of incorporation or code of regulations or by-laws of the corporation issuing the certificate and the certificate itself, provide that the shares represented thereby shall be trans-

ferable only on the books of the corporation or shall be registered by a registrar or transferred by a transfer agent.

SECTION 2. Nothing in this act shall be construed as enlarging the powers of an infant or other person lacking full legal capacity, or of a trustee, executor or administrator, or other fiduciary, to make a valid indorsement, assignment or power of attorney.

How act shall be construed.

SECTION 3. Nothing in this act shall be construed as forbidding a corporation,

Same subject.

(a) To recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, or

(b) To hold liable for calls and assessments a person registered on its books as the owner of shares.

SECTION 4. The title of a transferee of a certificate under a power of attorney or assignment not written upon the certificate, and the title of any person claiming under such transferee, shall cease and determine it, at any time prior to the surrender of the certificate to the corporation issuing it, another person, for value in good faith, and without notice of the prior transfer, shall purchase and obtain delivery of such certificate with the indorsement of the person appearing by the certificate to be the owner thereof, or shall purchase and obtain delivery of such certificate and the written assignment or power of attorney of such person, though contained in a separate document.

Title of transferee, etc.

SECTION 5. The delivery of a certificate to transfer title in accordance with the provisions of section one, shall be effectual, except as provided in section seven, though made by one having no right of possession and having no authority from the owner of the certificate or from the person purporting to transfer the title.

Delivery of certificate.

SECTION 6. The indorsement of a certificate by the person appearing by the certificate to be the owner of the shares represented thereby shall be effectual, except as provided in section seven, though the indorser or transferor,

Indorsement.

(a) was induced by fraud, duress or mistake, to make the indorsement or delivery, or

(b) has revoked the delivery of the certificate, or the authority given by the indorsement or delivery of the certificate, or

(c) has died or become legally incapacitated after the indorsement, whether before or after the delivery of the certificate, or

(d) has received no consideration.

RESCISSION OF TRANSFER.

Rescission of transfer.

SECTION 7. If the indorsement or delivery of a certificate,
 (a) was procured by fraud or duress, or
 (b) was made under such mistake as to make the indorsement or delivery inequitable; or

If the delivery of a certificate was made
 (c) without authority from the owner, or
 (d) after the owner's death or legal incapacity, the possession of the certificate may be reclaimed and the transfer thereof rescinded, unless:

(1) The certificate has been transferred to a purchaser for value in good faith without notice of any facts making the transfer wrongful, or,

(2) The injured person has elected to waive the injury, or has been guilty of laches in endeavoring to enforce his rights.

Any court of appropriate jurisdiction may enforce specifically such right to reclaim the possession of the certificate or to rescind the transfer thereof and, pending litigation, may enjoin the further transfer of the certificate, or impound it.

Subsequent transfer to be effectual in certain cases.

SECTION 8. Although the transfer of the certificate or of shares represented thereby has been rescinded or set aside, nevertheless, if the transferee has possession of the certificate or of a new certificate representing part or the whole of the same shares of stock, a subsequent transfer of such certificate by the transferee, mediately or immediately, to a purchaser for value in good faith, without notice of any facts making the transfer wrongful, shall give such purchaser an indefeasible right to the certificate and the shares represented thereby.

INCOMPLETE TRANSFER.

Incomplete transfer.

SECTION 9. The delivery of a certificate by the person appearing by the certificate to be the owner thereof without the indorsement requisite for the transfer of the certificate and the shares represented thereby, but with intent to transfer such certificate or shares shall impose an obligation, in the absence of an agreement to the contrary, upon the person so delivering, to complete the transfer by making the necessary indorsement. The transfer shall take effect as of the time when the indorsement is actually made. This obligation may be specifically enforced.

Effect of attempted transfer, etc.

SECTION 10. An attempted transfer of title to a certificate or to the shares represented thereby without delivery of the certifi-

cate shall have the effect of a promise to transfer, and the obligation, if any, imposed by such promise shall be determined by the law governing the formation and performance of contracts.

WARRANTIES.

SECTION 11. A person who for value transfers a certificate, including one who assigns for value a claim secured by a certificate, unless a contrary intention appears, warrants —

Warrant of transfer.

- (a) That the certificate is genuine,
- (b) That he has a legal right to transfer it, and
- (c) That he has no knowledge of any fact which would impair the validity of the certificate.

In the case of an assignment of a claim secured by a certificate, the liability of the assignor upon such warranty shall not exceed the amount of the claim.

SECTION 12. A mortgagee, pledgee, or other holder for security of a certificate who in good faith demands or receives payment of the debt for which such certificate is security, whether from a party to a draft drawn for such debt, or from any other person, shall not by so doing be deemed to represent or to warrant the genuineness of such certificate, or the value of the shares represented thereby.

Mortgagee, pledgee, etc.

ATTACHMENT.

SECTION 13. No attachment or levy upon shares of stock for which a certificate is outstanding shall be valid until such certificate be actually seized by the officer making the attachment or levy, or be surrendered to the corporation which issued it, or its transfer by the holder be enjoined. Except where a certificate is lost or destroyed, such corporation shall not be compelled to issue a new certificate for the stock until the old certificate is surrendered to it.

Attachment, etc.

SECTION 14. A creditor whose debtor is the owner of a certificate shall be entitled to such aid from courts of appropriate jurisdiction, by injunction and otherwise, in attaching such certificate or in satisfying the claim by means thereof as is allowed at law or in equity, in regard to the property which cannot readily be attached or levied upon by ordinary legal process.

Aid to creditor, etc.

LIENS.

SECTION 15. There shall be no lien in favor of a corporation upon the shares represented by a certificate issued by such corporation, and there shall be no restriction upon the transfer of

Liens.

shares so represented by virtue of any by-law of such corporation, or otherwise, unless the right of the corporation to such lien or the restriction is stated upon the certificate.

ALTERATION AND LOSS OF CERTIFICATES.

Alteration
and loss of
certificate,
etc.

SECTION 16. The alteration of a certificate, whether fraudulent or not and by whomsoever made, shall not deprive the owner of his title to the certificate and the shares originally represented thereby, and the transfer of such a certificate shall convey to the transferee a good title to such certificate and to the shares originally represented thereby.

Jurisdiction
of courts,
etc.

SECTION 17. Where a certificate has been lost or destroyed, a court of competent jurisdiction may order the issue of a new certificate therefor on service of process upon the corporation and on reasonable notice by publication, and in any other way which the court may direct, to all persons interested, and upon satisfactory proof of such loss or destruction and upon the giving of a bond with sufficient surety to be approved by the court to protect the corporation or any persons injured by the issue of the new certificate from any liability or expense, which it or they may incur by reason of the original certificate remaining outstanding. The court may also in its discretion order the payment of the corporation's reasonable costs and counsel fees.

Issue of new
certificate
not to relieve
from liability,
etc.

The issue of a new certificate under an order of the court as provided in this section, shall not relieve the corporation from liability in damages to a person to whom the original certificate has been or shall be transferred for value without notice of the proceedings or of the issuance of the new certificate.

GENERAL PROVISIONS.

General
provisions.

SECTION 18. In any case not provided for by this act, the rules of law and equity, including the law merchant, and in particular the rules relating to the law of principal and agent, executors, administrators and trustees, and to the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy, or other invalidating cause, shall govern.

Interpreta-
tion of act.

SECTION 19. This act shall be interpreted and construed in such manner as to effectuate its general purpose to make uniform the law of those states which enact it.

Indorsement
of certificate,
etc.

SECTION 20. A certificate shall be deemed to be indorsed when an assignment or a power of attorney to sell, assign, or transfer the certificate or the shares represented thereby is written on the certificate and signed by the person appearing by the certificate

to be the owner of the shares represented thereby, or when the signature of such person is written without more upon the back of the certificate. In either of such cases a certificate shall be deemed to be indorsed though it has not been delivered.

SECTION 21. The person to whom a certificate was originally issued shall be deemed to be the person appearing by the certificate to be the owner thereof, and of the shares represented thereby, until and unless he indorses the certificate to another specified person, and thereupon such other specified person shall be deemed to be the person appearing by the certificate to be the owner thereof until and unless he also indorses the certificate to another specified person. Subsequent special indorsements may be made with like effect.

Person to whom certificate was originally issued to be deemed the owner, etc.

DEFINITIONS.

SECTION 22. (1) In this act, unless the context or subject matter otherwise requires —

Certain terms defined.

“Certificate” means a certificate of stock in a corporation organized under the laws of this state or of another state whose laws are consistent with this act.

“Delivery” means voluntary transfer of possession from one person to another.

“Person” includes a corporation or partnership or two or more persons having a joint or common interest.

To “purchase” includes to take as mortgagee or as pledgee.

“Purchaser” includes mortgagee or pledgee.

“Shares” means a share or shares of stock in a corporation organized under the laws of this state or of another state whose laws are consistent with this act.

“State” includes state, territory, district and insular possession of the United States.

“Transfer” means transfer of legal title.

“Title” means legal title, and does not include a merely equitable or beneficial ownership or interest.

“Value” is any consideration sufficient to support a simple contract. An antecedent or pre-existing obligation, whether for money or not, constitutes value where a certificate is taken either in satisfaction thereof or as security therefor.

(2) A thing is done in “good faith” within the meaning of this act, when it is in fact done honestly, whether it be done negligently or not.

SECTION 23. The provisions of this act shall apply only to certificates issued after the act takes effect.

To apply only to certain certificates.

Repeal.

SECTION 24. All acts and parts of acts inconsistent herewith are hereby repealed.

Uniform
Stock Trans-
fer Act.

SECTION 25. This act may be cited as the Uniform Stock Transfer Act.

SECTION 26. This act shall take effect upon its passage. [*Approved March 5, 1910.*]

Capital stock
of companies
specially
chartered,
how limited.
1808, 65, § 3.
1829, 53, § 3.
R. S. 38, § 9.
G. S. 60, § 9.
1870, 224,
§ 22.
P. S. 106,
§ 32.
6 Gray, 586.

SECTION 29. The amount of the capital stock of every corporation which is established by special charter and which is subject to the provisions of this chapter, shall, at the first meeting of the corporation, unless the charter otherwise provides, be fixed and limited by the corporation and divided into shares, of which a record shall be made by the clerk.

Revised Laws, Chapter 109, § 18.

Par value
of shares.
1860, 128,
§ 1.
1867, 131.
1870, 224,
§ 7.
1873, 37.
1878, 86.
P. S. 105,
§ 16; 106,
§ 31.
1894, 500.
1898, 503,
§ 2.

SECTION 18. The par value of shares in the capital stock of a corporation, if organized for any of the purposes mentioned in sections five, six, eleven and thirteen of chapter one hundred and ten, may be such amount, not less than twenty-five nor more than one hundred dollars, as may be fixed in its agreement of association, and if organized for any of the purposes mentioned in sections seven and eight of said chapter, may be one hundred dollars or any other amount fixed in its agreement of association. Such corporation may, at a meeting of stockholders called for the purpose, change the par value of its shares if a certificate of such change shall, within ten days thereafter, be made, signed and sworn to by its president, treasurer and a majority of its directors, or other officers having the powers of directors, and, having been approved as to its form by the commissioner of corporations, be filed in the office of the secretary of the commonwealth. The par value of the shares of the capital stock of all other corporations, unless otherwise expressly provided by law, shall be one hundred dollars, and any corporation which may be organized with shares of a par value other than one hundred dollars may, in like manner, change the par value to that amount.

Capital stock,
how in-
creased or
reduced.
1829, 53, § 3.
R. S. 38, § 8.
1851, 133, § 8.
G. S. 60, § 8;
61, § 6.
1870, 224,
§ 21.
P. S. 106, § 33.

SECTION 30. The capital stock of every corporation which is subject to the provisions of this chapter, the amount whereof has been fixed and limited by such corporation according to law, shall remain so fixed, subject to increase or reduction pursuant to the provisions of this chapter.

SECTION 31. Every corporation which is subject to the provisions of this chapter, unless otherwise expressly provided, at a meeting called for the purpose, may increase or reduce the amount of its capital stock and the number of shares therein, within the amount limited by its charter, if a chartered corporation, and by the provisions of this chapter, if organized under general laws. The limitation of such increase for such mechanical or manufacturing corporations, except those created for distilling or manufacturing intoxicating liquors, shall be the amount determined by the stockholders at a meeting called for the purpose. The capital stock of a corporation which is established in this commonwealth and is subject to taxation under the provisions of section forty-nine of chapter fourteen shall not be reduced except upon application to the supreme judicial court. Written notice of such application shall be given to the tax commissioner and to the attorney general at least ten days before the hearing. (See *Revised Laws, chapter 109, §§ 24, 26, 27 and 28 on pages 18-21.*)

Increase and reduction of capital stock.
 1829, 53,
 §§ 3, 10,
 R. S. 38,
 §§ 11, 20,
 1851, 133,
 § 8,
 1855, 478,
 § 5,
 1857, 24,
 G. S. 60,
 §§ 11, 21;
 61, § 6,
 1865, 283,
 § 8,
 1866, 290,
 § 5,
 1870, 224,
 § 24,
 1871, 110,
 § 2,
 1873, 39, § 2,
 1875, 177,
 § 3,
 P. S. 13, § 43;
 106, § 34,
 1899, 199,
 § 2.

SECTION 32. A corporation which is created by special charter for the purpose of carrying on any mechanical or manufacturing business and which has not accepted the provisions of this chapter or the corresponding provisions of earlier laws, and a corporation which is created by special charter for the purpose of mining whether otherwise subject to the provisions of this chapter or not, [and, subject to the provisions of section twenty-four of chapter one hundred and nine, a corporation which is created by special charter or organized under general laws for the purpose of making and selling gas for light in a city or town, whether otherwise subject to the provisions of this chapter or not] may increase its capital stock to an amount not exceeding one million dollars, and may reduce the same, subject to the provisions of this chapter. *A corporation which is created by special charter or organized under general laws for the purpose of making and selling gas or electricity for light, heat or power in a city or town, whether otherwise subject to the provisions of this chapter or not, may increase its capital stock from time to time by such amounts as may be authorized by the board of gas and electric light commissioners in accordance with the provisions of section twenty-four of chapter one hun-*

Certain corporations may increase and reduce capital.
 1871, 110,
 § 2,
 1873, 39, § 2,
 1875, 177,
 § 3,
 P. S. 106,
 § 35,
 Amended.
 1908, 534.

dred and nine, and may reduce the same, subject to the provisions of this chapter.

Certain corporations may hold real property. 1871, 110, § 3. 1873, 39, § 2. P. S. 106, § 36.

Disposition of new shares. 1870, 179. 1871, 109. 1877, 230, § 3. P. S. 106, § 37. 132 Mass. 76. 168 Mass. 345, 349.

Disposition of new shares of co-operative associations. 1871, 109. 1877, 230, § 3. Special stock. 1855, 290. G. S. 60, § 12. 1870, 224, § 25. P. S. 106, § 42. 15 Gray, 274. 136 Mass. 207. 139 Mass. 5.

Corporations may issue preferred stock to certain amounts, etc.

SECTION 33. A mechanical, manufacturing or gas corporation whose capital stock is increased under the provisions of the preceding section may hold real property necessary for the purposes for which it was organized.

SECTION 34. If a corporation which is subject to the provisions of this chapter, except a co-operative association or a corporation mentioned in section thirty of chapter one hundred and nine, increases its capital stock, its directors shall give written notice of such increase to each of its stockholders in the manner provided in section twenty-nine of chapter one hundred and nine, and each stockholder may take his proportion of the new shares as is provided in said section. The shares which are not so taken may be sold or issued in such manner as its stockholders may by vote direct; but no shares shall be so sold or issued for a less amount than the par value thereof. (*See Acts of 1909, chapter 477, as amended by Acts of 1910, chapter 374, on page 21.*)

SECTION 35. If a co-operative association increases its capital stock the new shares may be sold or issued in such manner as the stockholders may by vote direct, but not for a less amount than the par value thereof. P. S. 106, § 38.

SECTION 36. A corporation which is subject to the provisions of this chapter may, by a vote of three-fourths of its general stockholders at a meeting duly called for the purpose, issue special stock, the total amount of which outstanding at any time shall not exceed two-fifths of the actual capital paid in on the general and special stock, and shall be subject to redemption at par after a fixed time which shall be expressed in the certificates. Holders of special stock shall be entitled to receive, and the corporation shall be bound to pay thereon, a fixed half-yearly sum or dividend, which shall be expressed in the certificates, not exceeding four per cent, and they shall not be liable for the debts of the corporation beyond their stock.

Acts of 1902, Chapter 441.

An Act to authorize Corporations to issue Preferred Stock.

SECTION 1. Every corporation organized under the laws of this Commonwealth shall have power to issue preferred stock to an amount not exceeding at any time the amount of the general stock then outstanding, with such preferences and voting powers

or restrictions or qualifications thereof as shall be fixed and determined in the by-laws at the organization of the corporation; or after organization, by a two thirds vote of all the stock, or by a by-law adopted by a two thirds vote of all the stock, at a meeting duly called for the purpose.

SECTION 2. Such stock shall be issued subject to all general laws of the Commonwealth governing the issue of capital stock; and each certificate subsequently issued of stock in the corporation shall have fully and plainly printed thereon the by-law or vote of the corporation authorizing the issue of preferred stock.

Certain provisions of law to apply.

SECTION 3. This act shall take effect upon its passage. [*Approved June 5, 1902.*]

SECTION 37. A corporation which is subject to the provisions of this chapter may, by a vote of its general stockholders at a meeting called for the purpose, issue employees' stock to be held only by the employees of such corporation. The par value of the shares of such employees' stock shall be ten dollars, and the purchasers thereof may pay for them in monthly instalments of one dollar upon each share. The total amount of such employees' stock outstanding at any time shall not exceed two-fifths of the actual capital paid in on the general and employees' stock.

Employees' stock. 1886, 209, § 1.

SECTION 38. If a dividend is paid by such corporation to its stockholders, the holders of employees' stock shall receive upon each share which has been paid for in full in time to be entitled to a dividend, an amount which shall bear such proportion to the amount paid as a dividend upon each share of the general stock of such corporation as the par value of the shares of such employees' stock bears to the par value of the shares of such general stock.

Dividends on employees' stock. 1886, 209, § 2.

SECTION 39. The shares of employees' stock shall not be sold or transferred except to an employee of such corporation or to the corporation itself. A corporation which issues employees' stock may prescribe by its by-laws the number of shares which may be held by any one employee and the method of transfer and redemption of such stock as is held by any person after he ceases to be an employee of the corporation.

Transfer of employees' stock. 1886, 209, § 3.

SECTION 40. Every corporation which is subject to the provisions of this chapter may, from time to time at a legal meeting called for the purpose, assess upon each share such amount of money as it considers proper, not exceed-

Assessments upon shares. 1808, 65, § 5. 1829, 53, § 5. R. S. 38, § 13. G. S. 60, § 14.

1870, 224,
§ 27.
P. S. 106,
§ 43.

Sale of shares
to pay as-
sessments.
1808, 65, § 5.
1829, 53, § 5.
R. S. 38, § 14.
G. S. 60, § 15.
1870, 224,
§ 28.
P. S. 106,
§ 44.

Notice of sale,
and deed of
shares sold.
1808, 65, § 5.
1829, 53, § 5.
R. S. 38, § 15.
G. S. 60, § 16.
1870, 224,
§ 29.
P. S. 106,
§ 45.

Capital stock,
payment of.
1829, 53, § 6.
R. S. 38,
§§ 16, 17.
1851, 133,
§ 4.
1857, 276,
§ 1.
G. S. 60,
§§ 17, 18; 61,
§ 8.
1866, 290,
§ 8.
1870, 224,
§ 32.
1875, 177,
§ 2.
P. S. 106,
§ 46.
6 Met. 114.

— how paid
in.
1829, 53, § 8.
R. S. 38, § 24.
G. S. 60, § 14.
1870, 224,
§ 27.
1875, 177,
§ 2.
P. S. 106,
§§ 47, 48.

ing in the whole the par value thereof, unless the price is fixed as provided by section thirty of chapter one hundred and nine, and, in such case, not exceeding said price. Such assessments shall be paid to the treasurer at such times and by such instalments as the corporation directs.

SECTION 41. If the stockholder neglects to pay an amount duly assessed on his shares for thirty days after the time appointed for payment, the treasurer of the corporation may sell by public auction a sufficient number thereof to pay all assessments then due from him with necessary and incidental charges.

14 Pick. 483.

14 Mass. 285.

16 Mass. 94.

121 Mass. 272.

SECTION 42. The treasurer shall give notice of the time and place appointed for such sale, and of the amount due on each share, by advertising the same three weeks successively before the sale in a newspaper, if any, published in the county in which the corporation is established; otherwise in a newspaper published in an adjoining county; and a deed of the shares so sold, made by the treasurer and acknowledged before a justice of the peace and recorded as provided in section twenty-eight, shall transfer said shares to the purchaser, who shall be entitled to a certificate therefor.

SECTION 43. A corporation which is subject to the provisions of this chapter shall not commence the transaction of the business for which it was organized or chartered until the whole amount of its capital stock has been paid in and a certificate of that fact, and of the manner in which the same has been paid in and, at the time of making the certificate, been invested or voted by the corporation to be invested, signed and sworn to by the president, treasurer and a majority of the directors, has been filed in the office of the secretary of the commonwealth.

101 Mass. 381.

127 Mass. 564.

155 Mass. 184.

180 Mass. 329.

117 Mass. 478.

152 Mass. 428.

179 Mass. 18.

195 Mass. 463.

SECTION 44. The capital stock, except as provided in this and the following section, shall be paid in in cash. The conveyance to the corporation of real or personal property at a fair valuation shall be a sufficient paying in of its capital stock to the extent of such value, if a statement, made, signed and sworn to by its president, treasurer and a majority of its directors, giving a description of such property and the value at which it has been taken in payment, in such detail as the commissioner of corpo-

rations shall require or approve, and indorsed with his certificate that he is satisfied that said valuation is fair and reasonable, is filed with the secretary of the commonwealth. Such statement shall be included in the certificate of payment of capital required by the preceding section. No note or obligation given by a stockholder, whether secured by pledge or otherwise, shall be considered as payment of any part of the capital stock. (*See Revised Laws, chapter 109, §§ 20, 30, 31, and Acts of 1909, chapter 477, pages 18, 20 and 21.*)

SECTION 45. If the corporation was organized for the purpose of acquiring claims against, or property of, a bankrupt or insolvent corporation, or property conveyed by it for the benefit of its creditors, as provided in section fourteen, any such claims or property may be assigned and conveyed to the corporation in payment for shares of its capital stock at a fair and reasonable valuation, to be determined and approved by the commissioner as provided in the preceding section; and his decision that such valuation is fair and reasonable, when made and certified as therein required, shall be final. No claim shall be so assigned or conveyed after three years from the date when the original corporation was adjudicated bankrupt or insolvent or made such assignment for the benefit of its creditors.

Capital stock, may be paid in claims and property in certain cases. 1879, 275, §§ 2, 3. P. S. 106, § 49.

Revised Laws, Chapter 109, § 40.

UNCLAIMED DIVIDENDS.

SECTION 40. Each corporation in this commonwealth shall, once in every five years, publish three times successively in a newspaper in the city of Boston, and also in a newspaper, if any, in the county in which the corporation is established, a list of all dividends which have remained unclaimed for two years or more and the names of the persons to whose credit such dividends stand.

List of unclaimed dividends to be published. 1837, 56. G. S. 68, § 19. P. S. 105, § 27.

Business of Corporation.

SECTION 46. A corporation which is subject to the provisions of this chapter may in its corporate name purchase, hold and convey real and personal property necessary for the purposes of its organization; may carry on its business, or so much thereof as is convenient, beyond the limits of this commonwealth, and may there purchase and hold real or personal property necessary for conducting its business; but it shall not direct its operations or appropriate its

Business powers of corporations. 1851, 133, § 7. 1855, 478, § 1. 1857, 24. G. S. 61, § 7. 1866, 290, § 2. 1870, 224, §§ 15, 31. P. S. 106, §§ 23, 50. 157 Mass. 37.

funds to any other purpose than that specified in its agreement of association or its charter, as the case may be, except as provided in section seven of chapter one hundred and nine and in the three following sections. No conveyance or mortgage of its real property, or lease thereof for more than one year, shall be made unless authorized by a vote of the stockholders at a meeting called for the purpose.

Change of
corporate
business.
1875, 177,
§ 4.
P. S. 106,
§ 51.
1885, 310.
Amended.
1910, 124.

SECTION 47. A corporation which is subject to the provisions of this chapter may, by a vote of all its stockholders at a meeting duly called for the purpose, alter, add to or change the business for the transaction of which it was incorporated, but it shall not engage in any business which is not authorized by the provisions of this chapter, *and if incorporated for the purpose of making, selling or distributing gas for light or for heating, cooking, chemical and mechanical purposes, it shall not engage in the business of making or selling electricity for light, heat or power, unless duly authorized to engage therein as provided in section fourteen of chapter one hundred and twenty-one of the Revised Laws, and if incorporated for the purpose of making or selling electricity for light, heat or power, it shall not engage in the business of making, selling or distributing gas for light or for heating, cooking, chemical and mechanical purposes.* A certificate setting forth such alteration, addition or change, signed and sworn to by the president, treasurer and a majority of the directors, shall be filed in the office of the secretary of the commonwealth.

Gas com-
panies may
furnish steam,
etc.
1879, 202,
§ 2.
P. S. 106,
§ 52.
1885, 240,
§ 1.

SECTION 48. Any gas company which was organized or chartered before the ninth day of April in the year eighteen hundred and seventy-nine may engage in the business of making, selling and distributing gas for heating, chemical and mechanical purposes, or of generating or furnishing steam or hot water for heating, cooking and mechanical power in a city or town, by a vote of four-fifths of the stockholders representing not less than two-thirds of the stock, at a meeting duly called for that purpose, upon filing in the office of the secretary of the commonwealth a certificate as provided in the preceding section.

Free beds in
hospitals.
1889, 253.

SECTION 50. A manufacturing corporation may, by a vote of a majority of the stock represented at a meeting of the stockholders thereof, appropriate not more than five thousand dollars or an annual sum of not more than

five hundred dollars for the support of free beds in one or more hospitals in this commonwealth, for the use of its employees.

Certificates and Returns.

SECTION 51. Every corporation chartered by this commonwealth or organized under the general laws for the purpose of business or profit, which has a capital stock divided into shares, except banks, co-operative banks, savings banks and institutions for savings, insurance companies, including the Massachusetts Hospital Life Insurance Company, steam and street railway companies, safe deposit and trust companies and the Collateral Loan Company, shall annually file in the office of the secretary of the commonwealth, within thirty days after the date fixed in its by-laws for its annual meeting last preceding the date of such certificate, or within thirty days after the final adjournment of said meeting, but not more than three months after the date so fixed for said meeting, a certificate signed and sworn to by its president, treasurer and at least a majority of its directors, stating the date of holding such meeting, the amount of capital stock as it then stands fixed by the corporation, the amount then paid in, the name of each shareholder and the number of shares standing in his name, and the assets and liabilities of the corporation, in such form, with such detail and of such date as the commissioner of corporations shall require or approve. Such certificates shall, by the act of filing, be considered as recorded and shall be preserved by the secretary in book form convenient for reference.

Annual certificate of condition.
 1829, 53, § 7.
 R. S. 38, § 22.
 1838, 177.
 1851, 133,
 §§ 9, 10.
 1854, 438.
 1855, 68, § 3.
 1857, 276.
 G. S. 60,
 §§ 23, 24;
 61, § 10.
 1862, 210.
 1866, 290,
 § 6.
 1870, 224,
 § 33.
 1871, 110,
 §§ 4, 5.
 1874, 349,
 § 1.
 P. S. 106,
 § 54.
 1887, 225.
 1890, 199.
 1896, 369.
 188 Mass. 479.

SECTION 52. Such certificate of a corporation which has a capital stock of one hundred thousand dollars or more shall be accompanied by a written statement under oath by an auditor to be employed by a committee of three stockholders who are not directors which shall be selected at the annual meeting of the stockholders, or, if there are less than three stockholders other than directors, to be employed by the directors, stating that such certificate represents the true condition of the affairs of said corporation as disclosed by its books at the time of making such audit. The statement of the auditor shall be filed by him with said certificate in the office of the secretary of the commonwealth and shall be attached to and form a part of said

Verification by auditor.
 1897, 492.
 1898, 64.

certificate. The auditor shall be sworn to the faithful performance of his duties by a justice of the peace or some other magistrate authorized to administer oaths or affirmations; and evidence of such appointment and qualification shall be filed in the office of the commissioner of corporations.

Corporations failing to make such certificate may be dissolved.
1877, 230,
§ 2.
P. S. 106,
§ 55.

SECTION 53. If a corporation fails for two successive years to file such annual certificate, the supreme judicial court, upon application by the commissioner, after notice and a hearing, may decree a dissolution of the corporation.

1887, 225. 1896, 369.

Certificate of increase of capital stock.
1851, 133,
§ 8.
G. S. 61, § 9.
1870, 224,
§ 34.
P. S. 106,
§ 56.

SECTION 54. A corporation which is subject to the provisions of this chapter shall, upon an increase of its capital stock, within thirty days after the payment or collection of the last instalment thereof, file a certificate of the amount of such increase and the fact of such payment, signed and sworn to by its president, treasurer and a majority of its directors, in the office of the secretary of the commonwealth.

— of reduction of capital.
1855, 478,
§ 5.
G. S. 61, § 9.
1870, 224,
§ 35.
P. S. 106,
§ 57.

SECTION 55. A corporation which is subject to the provisions of this chapter shall, within thirty days after a reduction of its capital stock is voted, file in the office of the secretary of the commonwealth a copy of the vote authorizing such reduction, signed and sworn to by its clerk.

Examination and indorsement of certificates.
1870, 224,
§ 37.
P. S. 106,
§ 59.
1887, 225.
1896, 369.
1898, 503,
§ 1.
[1 Op. A. G.
203, 278.]

SECTION 57. The certificate or copy which is required to be filed by the provisions of section eighteen of chapter one hundred and nine and sections forty-three, forty-seven, fifty-one, fifty-four, fifty-five and fifty-six of this chapter shall, before filing, be submitted to the commissioner of corporations, who shall examine the same; and if it appears to him to be a sufficient compliance in form with the requirements of this chapter, he shall certify his approval thereof by indorsement upon the same; but he shall indorse only the date and fact of submission to his inspection upon the copies of votes of corporations or the authorizations of municipal authorities required by the preceding section; and upon the payment of the fee hereinafter provided, the same may be filed in the office of the secretary of the commonwealth, who shall receive and record the same in books to be kept for the purpose; and, upon such filing, the corporation and its officers shall be conclusively held to have complied with the requirements of this chap-

ter in respect to the filing of such certificate, except that it may be shown in evidence that the statements made in such return were false, and were known to be so by any officer or officers signing or making oath to the same.

Revised Laws, Chapter 5, § 11.

Of the Secretary of the Commonwealth.

SECTION 11. He shall annually prepare, cause to be printed and on the first Wednesday of January submit to the general court, a true abstract from the certificates, *excepting those of foreign corporations*, required by [chapter one hundred and ten] law to be deposited with him, a statement of the names of all corporations changed under the provisions of sections nine, ten and eleven of chapter one hundred and nine, and the names of all corporations dissolved.

Abstract of certificates.
1851, 133,
§ 14,
G. S. 61, § 13.
1870, 224,
§ 62,
P. S. 106, § 2.
1891, 360,
§ 5.
Amended.
1903, 424.

Liability of Officers and Stockholders.

SECTION 58. The officers of a corporation which is subject to the provisions of this chapter shall be jointly and severally liable for its debts and contracts in the following cases, and not otherwise:—

Liability of officers for debts and contracts.
1821, 38.
1829, 53,
§§ 8, 9,
R. S. 38,
§§ 23-25, 28.
G. S. 60,
§§ 17-25, 30.
1862, 218, § 1.
1870, 224,
§ 38,
1875, 177, § 2.
1877, 230, § 1.
P. S. 106,
§ 60.
1898, 266.
10 Gray, 232,
600.
12 Gray, 203.
15 Gray, 216.
5 Allen, 398.
6 Allen, 579.
101 Mass. 385.
108 Mass. 523.
118 Mass. 295.
127 Mass. 533.
137 Mass. 516.
178 Mass. 226.
180 Mass. 264.
186 Mass. 490.
178 Mass. 242.
174 Mass. 434,
437.
179 Mass. 20.
180 Mass. 514.
182 Mass. 162,
531, 578.
138 Mass. 115,
559.
189 Mass. 566.
190 Mass. 38,
61.
195 Mass. 462.
198 Mass. 79.

The president and directors shall be so liable, —

First, For making or consenting to a dividend if the corporation is or thereby is rendered insolvent, to the extent of such dividend.

Second, For debts contracted between the time of making or assenting to a loan to a stockholder and the time of its repayment, to the extent of such loan.

Third, If the debts of a corporation exceed its capital, to the extent of such excess existing at the time of the commencement of the suit against the corporation in which the judgment was recovered upon which the suit in equity to enforce such liability is brought as hereinafter provided.

The president, directors, and treasurer shall be so liable, —

Fourth, For signing any statement filed under the provisions of section forty-four, if the property mentioned in such statement is not conveyed and taken at a fair valuation; but only the officer or officers who sign the statement shall be so liable.

The president, directors and other officers shall be so liable, —

Fifth, For signing any certificate which is required by law knowing it to be false; but only the officer or officers who have knowledge thereof shall be liable.

Sixth, For debts contracted before the original capital has been fully paid in and the certificate of such payment has been filed in accordance with the provisions of section forty-three.

Liability of stockholders or members.
 1821, 38.
 1826, 137, § 2.
 1829, 53,
 §§ 6, 7, 10, 11.
 R. S. 38,
 §§ 16, 21,
 32, 33.
 1851, 133,
 § 15; 252.
 1852, 9.
 1855, 290.
 G. S. 60,
 §§ 12, 17,
 22; 68, § 16.
 1862, 218, § 2.
 1870, 224,
 § 39.
 1875, 177,
 § 1.
 1876, 1, § 1.
 P. S. 106,
 § 61.
 13 Pick. 484.
 21 Pick. 454.
 6 Met. 114.
 12 Met. 3.
 8 Cush. 182.
 11 Cush. 183.
 10 Gray, 232.
 15 Gray, 216.
 16 Gray, 127.
 2 Allen, 498.
 6 Allen, 579.
 106 Mass. 131.
 118 Mass. 295.
 127 Mass. 564,
 586.
 134 Mass. 590.
 183 Mass. 565.
 195 Mass. 464.

SECTION 59. The members or stockholders in any corporation which is subject to the provisions of this chapter shall be jointly and severally liable for its debts or contracts in the following cases, and not otherwise:—

First, For such as may be contracted before the original capital is fully paid in; but only those stockholders who have not paid in full the par value of their shares, and those who have purchased such shares with knowledge of the fact, shall be liable for such debts.

Second, For the payment of all debts existing at the time when the capital is reduced, to the extent of the amounts withdrawn and paid to stockholders.

Third, If special stock is created under the provisions of section thirty-six, the general stockholders shall be liable for all debts and contracts until the special stock shall have been fully redeemed.

Fourth, For all money due to operatives for services rendered within six months before demand made upon the corporation, and its neglect or refusal to make payment.

Any such member or stockholder who pays, on a judgment or otherwise, more than his proportion of any such debt shall have a claim for contribution against the other members or stockholders.

Stockholders and officers, when liable.
 1851, 315,
 § 3.
 1852, 24.
 G. S. 60, § 34.
 1862, 218,
 § 3.
 1866, 290,
 § 10.
 1870, 224,
 § 40.
 P. S. 106,
 § 62.
 8 Allen, 86.

SECTION 60. A stockholder or officer in such corporation shall not be held liable for its debts or contracts unless a judgment has been recovered against it and it has neglected for thirty days after demand made on execution to pay the amount due, with the officer's fees, or to exhibit to him real or personal property of the corporation subject to be taken on execution, sufficient to satisfy the same, and the execution has been returned unsatisfied.

103 Mass. 160.	127 Mass. 563.	180 Mass. 515.	198 Mass. 78.
115 Mass. 380.	174 Mass. 434.	183 Mass. 565.	203 Mass. 554.

Clerk to furnish creditor with names of officers and stockholders.

SECTION 61. The clerk or other officer who has charge of the records of any such corporation against which judgment has been so recovered and execution so issued and

returned unsatisfied, upon reasonable request of the judgment creditor or of his attorney, shall furnish to him a certified list of the names of all persons who were officers and stockholders in such corporation at the time of the commencement of the suit in which judgment was recovered.

1864, 219, § 1.
1870, 224, § 41.
P. S. 106, § 63.
183 Mass. 565.

SECTION 62. After the execution has been so returned, any creditor may file a bill in equity, in behalf of himself and all other creditors of the corporation, against it and all persons who were stockholders therein at the time of the commencement of the suit in which such judgment was recovered, or against all the officers who are liable for its debts and contracts, for the recovery of the money due from the corporation to himself and the other creditors for which the stockholders or officers may be personally liable by reason of any act or omission on the part of the corporation or that of its officers or any of them, setting forth the judgment and proceedings thereon, and the grounds upon which it is expected to charge the stockholders or officers personally.

Creditor may file bill in equity against corporation officers and stockholders.
1808, 65, § 6.
1817, 183.
1826, 137, § 1.
1829, 53, § 11.
R. S. 38, §§ 29-31; 44, § 22.
1851, 315, §§ 1, 3.
1852, 24.
G. S. 60, §§ 31, 32, 34; 68, § 17.
1862, 218, § 4.
1866, 290, § 10.
1870, 224, § 42.
P. S. 106, § 64.

8 Cush. 93.	3 Allen, 485.	109 Mass. 473.	144 Mass. 399.
9 Cush. 192.	9 Allen, 471.	115 Mass. 286.	173 Mass. 242.
11 Gray, 139.	101 Mass. 385.	118 Mass. 269.	183 Mass. 565.
14 Gray, 193.	108 Mass. 404, 523.	127 Mass. 563, 592.	203 Mass. 555.

SECTION 63. Such sums as may be decreed to be paid by the stockholders in such suit in equity shall be assessed upon them in proportion to the amounts of stock held by them respectively at the time when the suit in which said judgment was recovered was begun; but no stockholder shall be liable to pay a larger sum than the amount of stock held by him at that time at its par value.

Stockholders to be assessed in proportion to stock.
1862, 218, § 5.
1870, 224, § 43.
P. S. 106, § 65.
16 Gray, 127.
127 Mass. 586.
183 Mass. 565.

SECTION 64. The estates and funds in the hands of executors, administrators, guardians, conservators or trustees shall be liable to no greater extent than the testator, intestate, ward or person interested in the trust fund would have been, if living and competent to act and hold the stock in his own name.

Liability of estates in hands of executors, etc.
1826, 137, § 4.
1829, 53, § 12.
R. S. 38, § 34.
1838, 98, § 1.

1870, 224, § 44.	10 Pick. 370.	9 Cush. 192.	183 Mass. 565.
P. S. 106, § 66.	6 Met. 114.	101 Mass. 60.	198 Mass. 81.

SECTION 65. If a defendant dies during the pendency of such a suit in equity, it shall not abate thereby; but his estate in the hands of his executor or administrator shall be liable to the same extent as he would be if living. Such executor or administrator may voluntarily appear and become a party to the suit or may be summoned by the plaintiff.

Suit in equity, not abated by death of one defendant.
1862, 218, § 7.
1870, 224, § 45.
P. S. 106, § 67.
173 Mass. 242.
183 Mass. 565.

Suit in equity, when dismissed. 1862, 218, § 8. 1870, 224, § 46. P. S. 106, § 68. 183 Mass. 565.
 — not abated by non-joinder of persons liable. 1862, 218, § 9. 1870, 224, § 47. P. S. 106, § 69.
 Suits may be defended by stockholder. 1867, 36, §§ 1, 2. 1870, 224, §§ 48, 49. P. S. 106, §§ 70, 71. 15 Gray, 216. 14 Allen, 470. 183 Mass. 565.

SECTION 66. Such suit in equity shall not be dismissed by the plaintiff without an order of court and such notice to other creditors as the court may find reasonable under the circumstances.

SECTION 67. No such suit in equity shall be abated by reason of the non-joinder of persons liable as defendants unless the plaintiff, after being notified by plea or answer of the existence of such persons, unreasonably neglects to make them parties. 10 Allen, 352. 183 Mass. 565.

SECTION 68. If, in a suit against a corporation which is established by the laws of this commonwealth, it appears to the court that one of the objects of the suit is to obtain a judgment against the corporation in order to enforce an alleged liability of a person who has been or is a stockholder or officer thereof, any such stockholder or officer may be permitted, on petition, to defend such suit, and in such case the court may require of him or of a person in his behalf, a bond with sufficient surety or sureties, conditioned to pay to the plaintiff all costs which may accrue and be taxed to him after the filing of said petition.

CO-OPERATIVE ASSOCIATIONS.

Profits of co-operative associations, how distributed. 1866, 290, § 12. 1870, 224, § 51. P. S. 106, § 72. 186 Mass. 373. 189 Mass. 567.

SECTION 69. A corporation which is organized for the purposes set forth in section seven shall distribute its profits or earnings among its workmen, purchasers and stockholders at such times and in such manner as shall be prescribed by its by-laws, and as often at least as once in twelve months; but no distribution shall be made unless at least ten per cent of the net profits have been appropriated for a contingent or sinking fund, until an amount has accumulated equal to thirty per cent of its capital stock.

No person to hold more than one thousand dollars of stock. 1866, 290, § 7. 1870, 224, § 52. P. S. 106, § 73. 186 Mass. 373.

SECTION 70. No person shall hold shares in any co-operative association to an amount exceeding one thousand dollars at their par value, nor shall any stockholder be entitled to more than one vote upon any subject.

GAS, PNEUMATIC, ETC., COMPANIES.

Gas light companies, etc., may open streets, when. 1855, 146, § 2.

SECTION 76. Gas light companies, corporations organized for the purpose of transporting the United States mail, merchandise and other articles by means of pneumatic pressure or power, corporations engaged in or organ-

ized for the purpose of manufacturing, buying, selling, distributing or dealing in artificial cold and refrigerating and cooling materials and corporations organized for any of the purposes mentioned in section nine may, with the consent in writing of the mayor and aldermen of a city or the selectmen of a town, dig up and open the ground in any of the streets, lanes and highways thereof, so far as is necessary to accomplish the objects of the corporation; but such consent shall not affect the right or remedy to recover damages for an injury caused to persons or property by the acts of such corporations. They shall put all such streets, lanes and highways into as good repair as they were in when opened; and upon failure so to do within a reasonable time, shall be guilty of a nuisance.

G. S. 61, § 16.
 1870, 224,
 § 56; 353,
 § 2.
 1879, 202,
 § 1, last cl.
 P. S. 106,
 § 75,
 1885, 240,
 § 1.
 1896, 544,
 § 1.
 1899, 453,
 12 Allen, 75.
 188 Mass. 244.
See as to con-
duits, etc.,
for steam
and hot
water.
 1909, 103.

Revised Laws, Chapter 47, § 21.

SECTION 21. No state highway shall be dug up for laying or placing pipes, sewers, poles, wires or railways or for other purposes, and no tree shall be planted or removed or obstruction placed thereon, without the written permit of the highway commission, and then only in accordance with the regulations of said commission; and the work shall be done under the supervision and to the satisfaction of said commission, and the entire expense of replacing the highway in as good condition as before shall be paid by the persons to whom the permit was given or by whom the work was done; but a city or town may dig up such state highway without such approval of the highway commission in case of immediate necessity; but in such cases it shall be forthwith replaced in as good condition as before at the expense of the city or town. Said commission shall give suitable names to the state highways, and may change the name of any way which becomes a part of a state highway. They shall erect suitable guide posts at convenient points along state highways.

Laying pipes,
 planting
 trees, etc.,
 regulated.
 1893, 476,
 § 14.
 [1 Op. A. G.
 317.]

Names to be
 given to state
 highways;
 guide posts to
 be erected,
 etc.

SECTION 77. If a person who is injured in his person or property by a defect in a highway which is caused by the operations of a company or corporation described in the preceding section in laying down or repairing its pipes or otherwise obstructing such way recovers damages therefor of the city or town wherein such injury is received, such city or town shall, if such company or corporation is liable for said damages and has reasonable notice to appear and defend the original action, be entitled to recover

Gas light
 companies,
 etc., liable to
 repay dam-
 ages, etc.
 1860, 121.
 P. S. 106,
 § 76,
 1896, 544,
 § 2.
See as to con-
duits, etc.,
for steam and
hot water.
 1909, 103.

of such company or corporation the damages so recovered from it with the taxable costs of both parties in such action.

Gas light companies, etc. to be regulated by selectmen, etc. 1855, 146, § 3. G. S. 61, § 17. 1870, 224, § 57. P. S. 106, § 77. See as to conduits, etc., for steam and hot water. 1909, 103. Other companies may hold gas stock. 1855, 146, § 4. G. S. 61, § 18. 1870, 224, § 58. Gas for heating, etc., purposes. 1885, 240.

SECTION 78. The mayor and aldermen of a city or the selectmen of a town in which pipes or conductors of such company or corporation are sunk may regulate, restrict and control all acts and doings of such company or corporation which may in any manner affect the health, safety, convenience or property of the inhabitants of such city or town.

SECTION 79. A manufacturing or other corporation which has its place of business in a city or town in which a gas light corporation proposes to manufacture gas for light may hold not more than ten per cent of the capital stock of such gas corporation. P. S. 106, § 78. R. L. 126, § 11.

SECTION 80. Corporations which are organized under the provisions of section nine for the purpose of making, selling and distributing gas for heating, cooking, chemical and mechanical purposes shall have all the powers and privileges and be subject to all the duties, restrictions and liabilities of gas light companies under the general laws. Gas used for such purposes, except illuminating gas as defined by section fourteen of chapter fifty-eight, shall not be used for domestic purposes unless connected with a chimney or flue having direct connection with the open air. Whoever violates the provisions of this section shall be punished by a fine of not more than twenty dollars for each offence.

Interest upon guaranty funds. 1901, 470.

SECTION 81. If a corporation which has a franchise in and the use of the public streets of a city or town for the supply and distribution of gas, water, electric light or power, or for the maintenance of communication by wire or otherwise, holds for a longer period than six months money which is collected in advance from its customers to guarantee it against loss of charges or tolls, it shall pay annually upon said guaranty fund interest at the rate of four per cent per annum to the depositor thereof, which shall be applied to the payment of charges and tolls by said depositors. The annual return required of such corporation by section fifty-one shall include a true statement of all moneys, and of the value of any collateral, so held as a guaranty for the payment of charges or tolls, specifying the amount so deposited by the inhabitants of each

city or town. If such corporation fails or neglects to make such return or fails, neglects or refuses to pay such interest it shall be punished by a fine of not less than one hundred nor more than five hundred dollars for each offence.

CONFIRMATION OF ORGANIZATION OR PROCEEDINGS.

SECTION 82. If doubts arise as to the legality of the organization of a corporation which was intended to be formed under the provisions of chapter sixty-one of the General Statutes or of any general or special statute conferring similar rights upon corporations organized under its provisions, its stockholders, at a special meeting called for the purpose in the manner provided in section seventeen or by a justice of the peace upon the written request therefor of a majority of the acting directors, may by vote confirm such organization and all proceedings under it, and by so doing and depositing and filing a copy of such vote in the office of the secretary of the commonwealth, such corporation and its subsequent acts shall be held legal and valid, as if the original organization had been legal.

Confirmation of organization. 1855, 478, § 3. G. S. 61, § 4. 1866, 290, § 4. 1870, 224, § 66. 1874, 349, § 1, last cl. P. S. 106, § 79.

SECTION 83. If doubts arise as to the legality of the organization of any corporation created by special charter for a purpose mentioned in this chapter, which is in the exercise of its franchise, or as to the regularity or sufficiency of the proceedings of any such corporation, whether created by special charter or formed under general laws, in consequence of failure subsequent to the organization to comply with the directions or requirements of any statute, the stockholders, at a special meeting called for the purpose in the manner provided in the preceding section, may by vote confirm such defective proceedings and all subsequent proceedings of the corporation dependent thereon. The clerk shall thereupon make a certificate under oath setting forth the particular matters especially causing the doubt, and a copy of the call of the meeting and of the vote of the stockholders, and the date of holding the meeting, which he shall present to the commissioner of corporations, who shall examine the same, and, if he finds that the provisions of this section have been complied with, shall so certify by indorsement thereon. Upon filing the certificate so indorsed in the office of the secretary of the

Confirmation of subsequent proceedings. 1874, 349, § 2. P. S. 106, § 80.

commonwealth, such proceedings shall be taken to be legal and valid as fully as if the requirements of the statutes had been complied with.

Revised Laws, Chapter 109, §§ 41 to 57, inclusive.

ATTACHMENT AND SALE OF FRANCHISE.

Warrants of distress against corporations for damages.
1810, 131, § 4.
R. S. 44, § 20.
1847, 259, § 5.
G. S. 68, § 24.
P. S. 105, § 29.
Attachment of franchise on mesne process.
1810, 131, § 3.
R. S. 44, § 11.

Sale of, on execution, etc.
1810, 131, § 1.
1824, 121, § 1.
R. S. 44, § 12.
G. S. 68, § 26.
P. S. 105, § 31.
5 Cush. 509.
170 Mass. 203.

Mode of sale.
1810, 131, § 1.
1824, 121, § 1.
R. S. 44, § 13.
G. S. 68, § 27.
P. S. 105, § 32.

Adjournment.
1810, 131, § 5.
R. S. 44, § 14.
G. S. 68, § 28.
P. S. 105, § 33.

Highest bidder, how determined.
1810, 131, § 2.
R. S. 44, § 15.
G. S. 68, § 29.
P. S. 105, § 34.

SECTION 41. If, by an order of county commissioners or by the verdict of a jury, damages have been assessed for an injury to property by the doings of any corporation which is authorized to receive toll, except a railroad corporation, and the damages remain unpaid for thirty days after the order or verdict, the owner thereof may have a warrant of distress against the corporation for such damages, with interest thereon and costs.

SECTION 42. The franchise of a corporation which is authorized to receive toll, and all the rights and privileges thereof, shall be liable to attachment on mesne process. G. S. 68, § 25.

P. S. 105, § 30. 5 Cush. 509. 11 Allen 71. 171 Mass. 61.

SECTION 43. If a judgment is recovered against a corporation which is authorized to receive toll, its franchise and all the rights and privileges thereof, so far as relate to the receiving of toll, and all other corporate property, real and personal, may be taken on execution or warrant of distress and sold by public auction.

SECTION 44. The officer who has such execution or warrant of distress shall, thirty days at least before the sale of any franchise or other corporate personal property, give notice of the time and place of sale by posting a notice thereof in the city or town in which the corporation is established or has its principal place of business, and by causing an advertisement of the sale, stating the name of the creditor, the amount of the execution or warrant of distress, and the time and place of sale, to be inserted three weeks successively in a newspaper, if any, published in said city or town; otherwise in a newspaper published in the county in which such city or town is situated; the last publication to be at least four days before the sale.

SECTION 45. The officer who levies such execution or warrant of distress may adjourn the sale for not more than seven days, and so from time to time until the sale is completed.

SECTION 46. In the sale of such franchise, the person who satisfies the execution or warrant of distress with all legal fees and expenses thereon and who agrees to take such franchise for the shortest period of time and to receive during that time all such toll as the corporation would by law be entitled to demand shall be considered the highest bidder.

SECTION 47. The officer's return on the execution or warrant of distress shall transfer to the purchaser all the privileges and immunities of the corporation, so far as relate to the right of demanding toll; and the officer shall, immediately after the sale, deliver to the purchaser an attested copy of the execution or warrant and the return thereon, which shall entitle said purchaser or his assigns to demand and receive to his own use all the toll which accrues within the time limited by the term of his purchase, in the same manner and under the same regulations as the corporation was before authorized to demand and receive the same.

Officer's return to transfer the right of toll, etc.
1810, 131, § 2.
R. S. 44, § 16.
G. S. 68, § 30.
P. S. 105, § 35.

SECTION 48. A purchaser of the franchise of a corporation under a sale upon execution or warrant of distress, or his assigns, may recover in an action of tort any penalties imposed by law for an injury to the franchise or for other cause which such corporation would have been entitled to recover during the time limited in the purchase of the franchise; and during that time, the corporation shall not be entitled to prosecute for such penalties.

Remedy of purchaser for damages.
1826, 116.
R. S. 44, § 17.
G. S. 68, § 31.
P. S. 105, § 36.

SECTION 49. The corporation whose franchise has been so sold shall in all other respects retain its powers, be bound to the performance of its duties and be liable to the same penalties and forfeitures as before the sale.

Liabilities to continue.
1810, 131, § 2.
R. S. 44, § 18.
G. S. 68, § 32.
P. S. 105, § 37.

SECTION 50. The corporation may, at any time within three months after the time of sale, redeem the franchise by paying or tendering to the purchaser or his assigns the amount which he paid, with twelve per cent interest thereon, but without any allowance for the toll which he has received; and upon such payment or tender, the franchise and all the rights and privileges thereof shall revert and belong to the corporation as if no such sale had been made.

Redemption of franchise.
1810, 131, § 2.
R. S. 44, § 19.
G. S. 68, § 33.
P. S. 105, § 38.

SECTION 51. All proceedings under the provisions of the ten preceding sections shall be in the county in which the creditor resides or the corporation is established or has its principal place of business.

Venue of proceedings.
1810, 131, § 6.
R. S. 44, § 21.
G. S. 68, § 34.
P. S. 105, § 39.

DISSOLUTION OF CORPORATIONS.

SECTION 52. If a majority in number or interest of the members of a corporation desire to close its affairs, they may file a petition therefor in the supreme judicial court or the superior court, setting forth in substance the grounds of their application, and the court, after notice to parties interested and a hearing, may decree a dissolution of the corporation. A corporation so dissolved shall be held to be extinct in all respects as if its corporate existence had expired by its own limitation.

Dissolution of corporations.
1852, 55, §§ 1, 3.
G. S. 68, § 35.
P. S. 105, § 40.
7 Gray, 119, 393.
9 Gray, 34.
13 Allen, 497.
99 Mass. 267.
119 Mass. 447.

Continuation for three years to close concerns.
 1819, 43.
 R. S. 44, § 7.
 G. S. 68, § 36.
 P. S. 105, § 41.
 22 Pick. 180.
 23 Pick. 345.
 16 Mass. 245.
 123 Mass. 32.
 161 Mass. 443.
 185 Mass. 505.

Receivers.
 1833, 145.
 R. S. 44,
 §§ 8, 9.
 1852, 55, § 2.
 G. S. 68,
 §§ 37, 38.
 P. S. 105,
 §§ 42, 43.
 1884, 203.
 157 Mass. 81.
Amended.
 1905, 156.

Receivers to pay debts and distribute surplus.
 1833, 145.
 R. S. 44, § 10.
 1852, 55, § 2.
 G. S. 68, § 39.
 P. S. 105,
 § 44.
 1 Gray, 382.

Surrender of certificate of incorporation.
 1898, 502.

SECTION 53. Every corporation whose charter expires by its own limitation or is annulled by forfeiture or otherwise, or whose corporate existence for other purposes is terminated in any other manner, shall nevertheless be continued as a body corporate for three years after the time when it would have been so dissolved, for the purpose of prosecuting and defending suits by or against it and of enabling it gradually to settle and close its affairs, to dispose of and convey its property and to divide its capital stock, but not for the purpose of continuing the business for which it was established.

SECTION 54. If the charter of a corporation expires or is annulled, or if the corporation is dissolved as provided in section fifty-two, or if its corporate existence for other purposes is terminated in any other manner, the supreme judicial court or the superior court, upon application of a creditor, stockholder or member, shall have jurisdiction in equity to appoint one or more receivers to take charge of its estate and effects and to collect the debts and property due and belonging to it; with power to prosecute and defend suits in its name or otherwise, to appoint agents under them and to do all other acts which might be done by such corporation, if in being, which may be necessary for the final settlement of its unfinished business. The powers of such receivers *and the existence of the corporation* may be continued as long as the court finds necessary for said purposes.

SECTION 55. The receivers shall pay all debts due from the corporation if the funds in their hands are sufficient therefor; and if they are not they shall distribute them ratably among the creditors who prove their debts in the manner directed by any decree of the court for that purpose. If there is a balance remaining after the payment of the debts, the receivers shall distribute and pay it to those who are justly entitled thereto as having been stockholders or members of the corporation, or their legal representatives.

SECTION 56. If a petition, signed and sworn to by a majority in number or interest of the members of a corporation organized under the general laws, except a corporation created for the purpose of business or profit having a capital stock divided into shares or which is under the supervision of the insurance commissioner, has, with the certificate of incorporation, been filed in the office of the secretary of the commonwealth stating that such members desire to surrender the certificate of incorporation and to have the corporation dissolved and giving their reasons therefor, the secretary, if he considers such reasons sufficient, shall require the petitioners to publish a notice in one or more newspapers in

the county in which the corporation is located that, for reasons which appear to him to be sufficient, the certificate of incorporation of the corporation therein named is annulled. Upon the filing by the petitioner with the secretary of a copy of each newspaper in which the notice of dissolution was ordered to be published, the corporation shall be dissolved, subject to the provisions of the three preceding sections.

SECTION 57. If a corporation is dissolved, the clerk of the court in which the decree for dissolution is entered shall forthwith make return thereof to the secretary of the commonwealth, giving the name of the corporation dissolved and the date upon which such decree was entered.

Returns to secretary of dissolution. 1880, 157. P. S. 105, § 45.

PENALTIES FOR OMISSIONS TO FILE CERTIFICATES, ETC.

SECTION 84. A corporation which, being subject to the provisions of this chapter, omits to cause to be filed any certificate or copy which is required by sections fifty-one, fifty-four and fifty-five shall forfeit two hundred dollars, to be recovered by action of tort brought in the name of the commonwealth in the county of Suffolk or in the county in which the corporation is established; and its president, treasurer and directors, for the time being, shall in addition be jointly liable in a like amount for such omission; and all forfeitures by a corporation under the provisions of this chapter may also be collected by information in equity, which may be brought in the county of Suffolk and shall be brought in the supreme judicial court in the name of the attorney general, at the relation of the commissioner of corporations; and upon such information the court may issue an injunction restraining the further prosecution of the business of the corporation named therein until such forfeitures, with interest and costs, are paid and until the returns required by this chapter are filed.

Penalties for omitting to file certificates. 1863, 246. 1866, 290, § 9. 1870, 224, § 60. 1877, 57. P. S. 106, §§ 81, 82. 1887, 225. 1896, 369.

SECTION 85. If an officer unreasonably refuses to give the certified list mentioned in section sixty-one or wilfully gives a false list, he shall be liable to the judgment creditor for double the amount of all damages occasioned by such refusal or false list.

Penalty for refusing to give certified list. 1864, 219, § 2. 1870, 224, § 60. P. S. 106, § 83.

FEEES.

SECTION 86. The fees for filing and recording the certificates which are required by this and the preceding chapter to be filed with the secretary of the commonwealth shall be as follows: —

Fees for filing, etc., certificates. P. S. 106, § 84. 1887, 225. 1896, 369.

Fees for filing, etc., certificates of organization.
 1863, 231, § 2.
 1865, 76.
 1870, 224, § 59.
 1871, 356.
Amended.
 1908, 219, 382.

— of increase of capital.
 1863, 231, § 2.
 1865, 76.
 1871, 356.
 1896, 523, § 2.
Amended.
 1908, 382.

— of change of business.
 1875, 177, § 4.
 1879, 202, § 2.

— of condition.
 1870, 224, § 59.

— of change of name.
 1896, 523, § 1.

— other certificates.
 1870, 224, § 59.
 Copies.
 1870, 224, § 59.
Stricken out.
 1908, 382.

For filing and recording the certificates required by sections twenty and twenty-one, including the issuing of the certificate of organization by the secretary, one-twentieth of one per cent of the amount of the capital stock as fixed by the agreement of association; but not less in any case than five [nor more than two hundred] dollars.

For filing and recording the certificate required by section fifty-four, one-twentieth of one per cent of the amount by which the capital is increased; [but the amount so to be paid shall not, if added to the amount previously paid for filing and recording certificates under the provisions of sections twenty, twenty-one and fifty-four, exceed two hundred dollars; and a corporation which has so paid two hundred dollars shall pay a fee of one dollar for each certificate thereafter filed and recorded under the provisions of section fifty-four.]

[For filing and recording the certificates required by sections forty-seven and forty-eight, one dollar for each certificate.] 1895, 169. *Stricken out.* 1908, 382.

[For filing and recording the certificate required by section fifty-one, five dollars.] *Stricken out.* 1908, 382.

[For filing and recording the certificate required by section ten of chapter one hundred and nine, one dollar.]

Stricken out. 1908, 382.

[For filing and recording any other certificate required by law, one dollar.] 1896, 523, § 1. *Stricken out.* 1908, 382.

[For official copies of any of the records mentioned in this chapter, the rates now fixed by chapter two hundred and four for copies of similar records furnished by the secretary of the commonwealth.]

CHAPTER 122.

OF COMPANIES FOR THE TRANSMISSION OF ELECTRICITY.

(Omitting sections relating to telegraph and telephone companies only.)

- SECTIONS 1, 2. — Construction of lines upon Highways.
 SECTIONS 3-5. — Damages of Land Owners.
 SECTIONS 6-8. — Capital and Debts. (Omitted.)
 SECTIONS 9-11. — Telegraph Companies. (Omitted.)
 SECTIONS 12-14. — Telephone Companies. (Omitted.)
 SECTION 15. — Damages. (Omitted.)
 SECTIONS 16, 17. — Protection and Marking of Wires.
 SECTIONS 18, 19. — Officers to Supervise Wires.
 SECTIONS 20, 21. — Poles to be Insulated.
 SECTIONS 22, 23. — Wires, etc., not to be affixed without Permission.
 To be marked.
 SECTIONS 24-30. — General Provisions.

CONSTRUCTION OF LINES UPON HIGHWAYS.

SECTION 1. A company which is incorporated for the transmission of intelligence by electricity, or by telephone, whether by electricity or otherwise, or for the transmission of electricity for lighting, heating or power, except lines for heat or power by a street railway company, may, under the provisions of the following sections, construct lines for such transmission upon and along the public ways and across any waters within the commonwealth, by the erection of the poles, piers, abutments and other fixtures, except bridges, which may be necessary to sustain the wires of its lines; but shall not incommode the public use of public ways nor endanger or interrupt navigation.

[SECTION 2. The mayor and aldermen of a city or the selectmen of a town through which the lines of a company are to pass shall give the company a writing specifying where the poles may be located, the kind of poles and the height at which, and the places where, the wires may run. After the erection of the lines, having first given the company or its agents opportunity to be heard, they may direct any alteration in the location or erection of the poles, piers or abutments and in the height of the wires. Such specifications and decisions shall be recorded in the records of the city or town.]

Section 2. *The mayor and aldermen of a city or the selectmen of a town through which the lines of a company are to pass shall give the company a writing specifying*

Construction of lines.
 1849, 93, § 2.
 G. S. 64, § 2.
 P. S. 109, § 2.
 1883, 221.
 1889, 434.
 1895, 350.
 97 Mass. 555.
 136 Mass. 75, 485.
 153 Mass. 209.
 182 Mass. 400.
 184 Mass. 152.
 188 Mass. 253.
 202 Mass. 406.

Location, etc., by mayor and aldermen, etc.
 1849, 93, § 3.
 G. S. 64, § 3.
 P. S. 109, § 3.
 9 Gray, 387.
 97 Mass. 555.
 136 Mass. 75.
 153 Mass. 200.
 182 Mass. 400.
 Repealed.
 1903, 237.

Granting of locations for poles and wires by cities and towns.

1903, 237.
Amended.
1906, 117.
202 Mass. 403.

where the poles may be located, the kind of poles, the height at which, and the places where, the wires may run. Any company, except street railway companies, desiring permission to erect poles, piers, abutments or other fixtures upon or along any public way shall, in writing, petition the said mayor and aldermen or selectmen therefor. A public hearing shall be held on such petition, and written notices of the time and place at which such hearing will be held shall be mailed at least three days before said hearing, by the clerk of the city or the selectmen of the town in which the petition for locations has been made, to the owners of real estate along the ways or parts of ways upon which it is proposed to construct said line, as determined by the last preceding assessment for taxation. The clerk of the city or the selectmen of the town shall endorse upon the order or specification of locations granted, his or their certificate that notices were sent and a hearing held as herein provided, and no such order or specification shall be valid without such certificate. After the erection of the lines the mayor and aldermen or selectmen may, after giving the company or its agents an opportunity to be heard, or upon petition of the company without hearing or notice, direct any alteration in the location or erection of the poles, piers or abutments, and in the height of the wires; and no permit shall be required for renewing, repairing or replacing poles, piers, abutments or other fixtures once erected under the provisions of law. Such certificates, specifications and decisions shall be recorded in the records of the city or town.

Revised Laws, Chapter 25, §§ 52, 53, 54, 55, 83.

Selectmen
may authorize
private lines.
1869, 457,
§ 2.
P. S. 27, § 45.
1883, 221.
1889, 434.
1895, 350.
182 Mass. 400.

SECTION 52. The selectmen may, upon terms and conditions prescribed by them, and subject to the provisions of chapter one hundred and twenty-two, so far as applicable, authorize a person to construct lines for private use upon, along and under the public ways of the town for the transmission, by electricity, of light, or of heat or power, except such as is used by street railway companies or for the transmission, by electricity or otherwise, of intelligence by telegraph or telephone. Upon the construction of such line, the poles and structures thereof within the location of such ways shall become the property of the town, and the selectmen may regulate and control the same, may at any time re-

quire the persons using the same to make alterations in the location or construction thereof and may, after notice and a hearing, order the removal thereof. The town may at any time attach wires for its own use to such poles and structures, and the selectmen may permit other persons to attach wires for their private use thereto or to poles and structures constructed by the town, and may prescribe reasonable terms and conditions therefor.

SECTION 53. Whoever unlawfully injures or destroys any wire, pole, structure or fixture of any such line shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than two years, or by both such fine and imprisonment.

Penalty for injury to same.
1869, 457, § 3.
P. S. 27, § 46.

SECTION 54. The selectmen may, within their respective towns, permit telegraph and telephone lines to be laid under any way or square, and may establish reasonable regulations for the erection and maintenance of all lines for the transmission of intelligence by telegraph or telephone, by electricity or otherwise, or for the transmission by electricity of light, or of heat or power except such as is used by street railway companies, by every person having authority to place poles, wires, structures and other appliances for any purpose in or under public ways or places, including all lines owned or used by said towns.

Towns may regulate telegraph, etc., wires.
1880, 83, § 1.
P. S. 27, § 47.
1883, 221.
1889, 398, 434.
1895, 350.
182 Mass. 400.

SECTION 55. The town shall forthwith in writing give notice in detail to the owner, constructor or person using any line therein which is constructed or maintained in violation of such regulations; and if thereafter such unlawful construction is continued or if said lines are not within a reasonable time so altered as to conform to said regulations, the supreme judicial court or the superior court shall have jurisdiction in equity to enjoin the further progress of said work, or to order such line to be removed or altered at the expense of the owners, constructors or persons using the same. If such line belongs to or is used by a town, like action may be taken upon complaint of a person injured, after such notice to the town as the court may order.

Proceedings, if regulations are violated.
1880, 83, § 2.
P. S. 27, § 43.
1891, 293.

SECTION 83. If road commissioners are chosen in a town, they shall exclusively have the powers, perform the duties and be subject to the liabilities and penalties of selectmen and surveyors of highways relative to streets, ways, bridges, monuments at the termini and angles of streets, guide posts, sidewalks and shade trees, and, if sewer commissioners are not chosen, relative to sewers and drains. 164 Mass. 263. 174 Mass. 451. 182 Mass. 199.

Road commissioners, powers, duties, etc.
1871, 158, § 2.
1873, 51.
P. S. 27, § 75.
1893, 423, § 23.
145 Mass. 561, 564.
146 Mass. 43.

Revised Laws, Chapter 26, § 6.

Regulation
of wires.
1880, 83, § 1.
P. S. 28, § 4.

SECTION 6. Regulations established by a city under the provisions of section fifty-four of chapter twenty-five shall be made by ordinance.

Revised Laws, Chapter 48, § 85.

Reserved
spaces in
public ways.
1894, 324.

RESERVED SPACES IN PUBLIC WAYS.

SECTION 85. If the city council of a city or a town accepts the provisions of this section or has accepted the corresponding provisions of earlier laws, the board or officers authorized to lay out streets, highways or town ways may, whether any such street or way is laid out under the provisions of law authorizing the assessment of betterments or otherwise, reserve spaces between the side lines thereof for the use of horseback riders, for bicycle paths or for street railways, except such as may be operated by steam, for drains, sewers and electric wires, for trees and grass, and for planting.

DAMAGES OF LAND OWNERS.

Damages
caused by
erection of
lines.
Costs.
1849, 93,
§§ 4, 5.
G. S. 64,
§§ 4, 5.
P. S. 109,
§§ 4, 5.
1884, 306,
§ 1.
1895, 350.
136 Mass. 75.
172 Mass. 197.

SECTION 3. An owner of land which abuts upon a public way along which telegraph or telephone, electric light, heating or power lines are constructed, erected or altered in location or construction by any telegraph or telephone, electric light, heating or power company, whose property is injuriously affected or diminished in value by occupation of the ground or of the air, or otherwise by such construction, erection or alteration, whether such owner is also the owner of the fee in such way or not, may, within three months after such construction, erection or alteration, apply to the mayor and aldermen of the city or selectmen of the town in which such land is situated to assess and appraise his damages. Before entering upon the service, the mayor and aldermen or selectmen shall severally be sworn faithfully and impartially to perform the duties herein required. They shall, upon view, make a just appraisal in writing of the loss or damage, if any, to the applicant, sign duplicates thereof, and on demand deliver one copy to the applicant and the other to the company or its agent. If damages are assessed, the company shall pay them and the costs of the appraisers. If the appraisers find that the applicant has suffered no damage he shall pay

said costs. The mayor and aldermen and selectmen shall each receive two dollars a day for services performed as appraisers.

SECTION 4. If such company does not pay such damages assessed, or, upon appeal, the amount of the final judgment, within thirty days after demand, the mayor and aldermen or selectmen may, upon request of such owner, remove all the poles, wires or other structures of such company from that portion of the public way upon which the land of such person abuts, first leaving a written statement at the office of such company in such city or town of the time when and place where they intend to remove such poles, wires or structures, not less than forty-eight hours prior to such removal. If such company has no office in such city or town, such notice shall be deposited in the post office, postage prepaid, and directed to such company at its office in some city or town in the county. The city or town so removing any such poles, wires or structures may recover the expense thereof of such company. The provisions of this section shall not prevent such owner from collecting the damages assessed.

If amount is not paid within thirty days, poles, etc., may be removed.
1884, 306,
§ 2.
1895, 350.

SECTION 5. A person who is aggrieved by the assessment of his damages may have them determined by a jury in proceedings according to the provisions of section eighty of chapter forty-eight. If the jury increase the damages, the amount of the verdict and all charges shall be paid by the company; otherwise, the charges shall be paid by the applicant.

Assessment by jury.
1849, 93, § 4.
G. S. 64, § 6.
P. S. 109, § 6.

PROTECTION AND MARKING OF WIRES.

SECTION 16. A person or a corporation, private or municipal, owning or operating a line of wires over or under streets or buildings in a city or town shall use only strong and proper wires safely attached to strong and sufficient supports and insulated at all points of attachment; shall remove all wires the use of which is abandoned; shall properly insulate every wire where it enters a building, and, if such wire is other than a wire designed to carry an electric light, heat or power current, shall attach to it at a proper point in the circuit, near the place of entering the building, and so situated as to avoid danger from fire, an

Regulations concerning wires in cities and towns.
1890, 404,
§ 1.
1899, 337,
§ 1.
161 Mass. 583.
178 Mass. 503.
185 Mass. 218.

appliance adapted at all times to prevent a current of electricity of such intensity or volume as to be capable of injuring electrical instruments or of causing fire from entering the building by means of such wire beyond the point at which such appliance is attached; and shall properly insulate every wire within a building which is designed to carry an electric light, heat or power current.

Names of owners to be attached.
1890, 404, § 2.
1899, 320; 337, § 2.

SECTION 17. Such person or corporation shall, in cities, affix at the points of support at which any wire or cable containing wires provided for in the preceding section is attached, a tag or mark distinctly designating the owner or user of such wire or cable. No such tag or mark shall be required for the wires of a street railway company, except for its feed wires at points of attachment to poles carrying the feed wires of one or more other street railway companies. In towns wherever wires belonging to different owners are attached to the same pole, cross arm or fixture, such pole, cross arm or fixture shall be plainly marked with the name or initials of the owner of the same, and such wires, at or near their points of attachment to such pole, cross arm or fixture, shall be tagged or marked with the names or initials of their owners.

OFFICERS TO SUPERVISE WIRES.

Inspector of wires; duties.
1890, 404, §§ 3, 4.
1899, 337, §§ 3, 4.

SECTION 18. A city shall, by ordinance, designate or provide for the appointment of an inspector of wires, and any town may, at an annual town meeting, instruct its selectmen to appoint such an inspector. Such inspector shall supervise every wire over or under streets or buildings in such city or town and every wire within a building which is designed to carry an electric light, heat or power current, shall notify the person or corporation owning or operating any such wire whenever its attachments, insulation, supports or appliances are improper or unsafe, or whenever the tags or marks thereof are insufficient or illegible, shall, at the expense of the city or town, remove every wire the use of which has been abandoned and every wire which is not tagged or marked as hereinbefore required, and shall see that all laws and regulations relative to wires are strictly enforced. A city or town may recover in an action of contract of the person or corporation owning any wire so removed the expense which it has incurred for the removal thereof.

SECTION 19. The supreme judicial court or the superior court shall have jurisdiction in equity upon petition of the officer or inspector designated or appointed as aforesaid, to enforce the provisions of the three preceding sections and to restrain the use or maintenance, or to cause the removal, of any wire, pole or other support which is erected, maintained or used in violation of the provisions of said sections.

Provisions may be enforced in equity. 1890, 404, § 5.

POLES TO BE INSULATED.

SECTION 20. Poles which are used for the transmission of electricity shall be insulated in such manner as to protect employees and other persons from accidents. The officer and inspector of wires appointed under the authority of section eighteen or the commissioner of wires of the city of Boston shall enforce the provisions of this section, and he shall be the sole judge of what constitutes a proper insulation.

Insulation of poles. 1895, 228, §§ 1, 2.

SECTION 21. A person or corporation owning poles which are used for the transmission of electricity who fails to comply with the provisions of the preceding section shall be punished by a fine of not less than ten nor more than one hundred dollars for every pole left uninsulated for an unreasonable time after a request for a proper insulation by the officer, inspector or commissioner acting under the provisions of the preceding section.

Penalty. 1895, 228, § 3.

WIRES, ETC., NOT TO BE AFFIXED WITHOUT PERMISSION.
TO BE MARKED.

SECTION 22. A corporation or person maintaining or operating telephone, telegraph or other electric wires or any other person who in any manner affixes or causes to be affixed to the property of another any pole, structure, fixture, wire or other apparatus for telephonic, telegraphic or other electrical communication, or who enters upon the property of another for the purpose of affixing the same, without first obtaining the consent of the owner or lawful agent of the owner of such property, shall, on complaint of such owner or his tenant, be punished by a fine of not more than one hundred dollars.

Affixing telephone wires, etc., to property without permission. 1884, 302, § 1.

SECTION 23. A corporation or person maintaining or operating telephone, telegraph or other electric wires shall, at all places where such wires are affixed by any pole, struc-

Name of corporation on pole or structure. 1884, 302, § 2. 201 Mass. 279.

ture or fixture to the property of another, mark such pole, structure or fixture in a clear, durable and legible manner with the name of the corporation or person maintaining or operating such wires, and any corporation or person who fails to comply with the provisions of this section shall be punished by a fine of not more than one hundred dollars.

Unincorporated companies.
1849, 93,
§§ 1, 6.
1851, 247, § 2.
G. S. 64, § 13.

SECTION 25. Owners and associations engaged in the business specified in section one of this chapter, although not incorporated, shall be subject to the provisions of this chapter, so far as they are applicable.

P. S. 109, § 14.

13 Allen, 226.

97 Mass. 555.

No easement obtained by poles, etc.
1851, 247,
§ 1.
G. S. 64, § 14.
P. S. 109,
§ 15.

SECTION 26. No enjoyment, for the purposes specified in section one of this chapter, by a person or corporation for any length of time of the privilege of having or maintaining poles, wires or apparatus in, upon, over or attached to any building or land of other persons shall give a legal right to the continued enjoyment of such easement or raise any presumption of a grant thereof.

Injury to lines, wires, etc.
1849, 93, § 7.
G. S. 64, § 15.
P. S. 109,
§ 16.
Amended.
1908, 233.

SECTION 27. Whoever unlawfully and intentionally injures, molests or destroys any line, wire, pole, pier or abutment, or any of the materials or property of any street railway company, of any electric railroad company, or of any city or town engaged in the manufacture and sale of electricity for light, heat or power or of any company, owner or association described in sections one and twenty-five shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than two years, or by both such fine and imprisonment; and whoever shall do any of the acts prohibited by this section between the hours of four o'clock in the afternoon and seven o'clock in the morning shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than four years, or by both such fine and imprisonment.

Wires may be cut, when.
1869, 141,
§ 1.
P. S. 109,
§ 17.
188 Mass. 265.

SECTION 28. Whoever, in order to move a building, or for any necessary purpose, desires to cut, disconnect or remove the wires of any such company, may do so, exercising reasonable care, if he has first left a written statement, signed by him, of the time when, and the place, described by reference to the crossings of streets or highways, where he wishes to remove said wires, at the office of the company in the town in which such place is situated, twenty-four hours before the time so stated, or, if there is

no such office, if he has deposited such statement in the post office, properly prepaid, and directed to the company at its office nearest to said place, three days before the time mentioned in said statement.

SECTION 29. Whoever wilfully cuts, disconnects, removes or otherwise interrupts the use of the wires of any such company, without first giving notice as provided in the preceding section, shall be punished as provided in section twenty-seven.

Penalty for cutting wires without notice. 1869, 141, § 2. P. S. 109, § 18.

SECTION 30. The provisions of the two preceding sections shall not apply to any wires attached to poles which have not been erected in compliance with the provisions of law.

Limitation of preceding sections. 1869, 141, § 3. P. S. 109, § 19.

ACTS RELATING TO THE BOSTON CONSOLIDATED GAS COMPANY.

ACTS OF 1903, CHAPTER 417.

AN ACT TO PROVIDE FOR THE CONSOLIDATION OF
CERTAIN GAS COMPANIES IN THE CITY OF BOS-
TON AND VICINITY.

Certain com-
panies in
Boston and
vicinity may
consolidate.

SECTION 1. The Boston Gas Light Company, the Brookline Gas Light Company, the Bay State Gas Company, the Roxbury Gas Light Company, the South Boston Gas Light Company, the Dorchester Gas Light Company, the Jamaica Plain Gas Light Company and the Massachusetts Pipe Line Gas Company, all being corporations organized under the laws of this Commonwealth, may unite and consolidate in one company in the manner and upon the terms and conditions hereinafter set forth.

Incorporation of the
Boston Con-
solidated Gas
Company.

SECTION 2. For the purpose of facilitating such union and consolidation, Robert Winsor, Samuel Carr, James L. Richards, S. Reed Anthony, Charles G. Smith, Robert E. Townsend, Henry B. Chapin, William S. Spaulding, Neal Rantoul and Charles Augustus Stone, their associates and successors, upon complying with the provisions of chapter one hundred and ten of the Revised Laws relating to the formation of corporations, so far as the same may be applicable and not inconsistent herewith, and upon their acceptance in and by their agreement of association, of the provisions of this act, shall be a corporation under the name of the Boston Consolidated Gas Company, for the purpose of making, selling and distributing gas for light or for heating, cooking, chemical and mechanical purposes, with all the powers and privileges and subject to all the duties, restrictions and liabilities set forth in this act, and, except as otherwise provided herein, in all general laws now or hereafter in force and applicable to such corporations, and, except as otherwise provided herein, in all special laws now governing the corporations mentioned in section one, so far as the same are applicable to said Boston Consolidated Gas Company and not inconsistent herewith.

SECTION 3. The corporations named in section one are hereby severally authorized, upon vote of two thirds in interest of their stockholders, respectively, at a meeting legally called for that purpose, to assign, transfer and convey their property, locations, rights, licenses, powers, privileges and franchises except as may otherwise be provided in this act, to the Boston Consolidated Gas Company, which is hereby authorized, when all the companies named in section one shall have so voted and that fact shall have duly been certified to the board of gas and electric light commissioners, upon vote of its incorporators or two thirds in interest of its shareholders at a meeting legally called for that purpose, to acquire the same as provided in sections four and five of this act, and upon such assignment, transfer and conveyance by all the corporations mentioned in section one the said Boston Consolidated Gas Company shall succeed to and hold and enjoy the said property, locations, rights, licenses, powers, privileges and franchises of the several corporations named in section one, except as may otherwise be provided in this act; but the said Boston Consolidated Gas Company shall have no authority to manufacture or sell electricity for light, heat or power, or to construct lines or conduits for the distribution of the same, except in the town of Brookline, in that part of the city of Boston formerly called Brighton, and in so much of the city of Boston as was formerly part of the town of Brookline, without first obtaining the consent of the board of gas and electric light commissioners therefor, so far as may be required by all general laws now or hereafter in force, and complying with all general laws applicable thereto.

Certain property, etc., may be transferred to the Boston Consolidated Gas Company, etc.

SECTION 4. [Said Boston Consolidated Gas Company shall have authority, for the purpose of acquiring the property, locations, rights, licenses, powers, privileges and franchises of the several corporations mentioned in section one, to issue such an amount of capital stock as may be approved by the board of gas and electric light commissioners as being equal at par to the fair value of the plants and property of the several corporations, as the same shall be determined by said board, on application of the Boston Consolidated Gas Company, after notice and a public hearing. Such value shall be determined without enhancement on account of the value of franchises or earning capacity, or on account

Capital stock.
Repealed.
1905, 421,
§ 1.

of exclusive privileges derived from rights in the public streets, or of good will, and there shall be deducted from the amounts of capital stock so to be issued such an amount as will equal at par any indebtedness of the corporations mentioned in section one which may be assumed by said Boston Consolidated Gas Company as hereinafter in this section provided.]

Appeal may be made to supreme judicial court in certain cases, etc.
Repealed.
1905, 421,
§ 1.

[The attorney-general, if he deems that the public interest so requires, the mayor of the city of Boston, the selectmen of the town of Brookline, the Boston Consolidated Gas Company, and any one of the corporations mentioned in section one, if aggrieved by the determination of the board may, within fourteen days after notice of such determination, or after such further time as the supreme judicial court may allow, appeal therefrom to the supreme judicial court, and upon the filing of such claim of appeal, together with a statement of objections to matters of fact or law, the supreme judicial court shall have jurisdiction in equity to hear and determine the same as upon the report of a master, and may enter such decrees or orders thereon as the case may require, and may recommit the matter to the board for further action by them in accordance with the requirements of such decree or order of recommital.]

The Boston Consolidated Gas Company to acquire stock of corporations whose properties are purchased.
Repealed.
1905, 421,
§ 1.

[Said Boston Consolidated Gas Company shall, so far as possible, acquire all the stock of the corporations whose properties are purchased as provided in section three, and the purchase price of the property of each corporation, whether paid in stock, or cash, or by the assumption of indebtedness, or part in each, shall be such amount as said board may approve as being the fair value of the plants and property of such corporation determined as hereinbefore provided.]

To assume certain liabilities, etc.
Repealed.
1905, 421,
§ 1.

[Said Boston Consolidated Gas Company shall assume and pay all debts and liabilities of the corporations mentioned in section one, in so far as the same shall not be paid or provided for out of the purchase price paid to said corporations: *provided, however,* that the adjustment and satisfaction of all debts and liabilities of said corporations to one another shall be subject to the approval of the board of gas and electric light commissioners.]

Proviso.

Capital stock of Boston Consolidated Gas Company.
1905, 421, § 1.

Said Boston Consolidated Gas Company for the purpose of acquiring the property, locations, rights, licenses, powers,

privileges and franchises of the several corporations mentioned in section one, shall have authority to issue an amount of capital stock equal at par to the aggregate of the par value of the existing stock of the corporations mentioned in section one and the face value of the outstanding bonds, notes and certificates of indebtedness as of October thirty-one, nineteen hundred and four, to wit: Stock to the aggregate par value of fifteen million, one hundred and twenty-four thousand six hundred dollars, but no more.

The corporations mentioned in section one shall pay and discharge the outstanding bonds, notes and certificates of indebtedness from the proceeds of the purchase price of the sale of their property, and said Boston Consolidated Gas Company shall assume and pay all other debts and liabilities of said corporations, except that any indebtedness of any of the corporations mentioned in section one to another of said corporations shall be extinguished when the consolidation authorized by this act shall have been effected.

Payment of indebtedness of corporations.

Said Boston Consolidated Gas Company shall, as far as possible, acquire all the stock of the corporations whose properties are purchased, as provided in section three, and the purchase price of the properties of each corporation and of such portion of its stock as may be acquired shall be such sum as the respective corporations may agree to, but the aggregate of the purchase prices paid therefor, after deducting therefrom the debts to be assumed by the Boston Consolidated Gas Company, shall not exceed the proceeds of the stock herein authorized, including any premiums which may be paid in thereon. No stock or bonds shall ever be issued for the indebtedness assumed as above provided.

Boston Consolidated Gas Company to acquire stock of corporations whose properties are purchased, etc.

Said Boston Consolidated Gas Company may also, from time to time, for any lawful purpose but subject to the general laws applicable thereto, issue additional stock, and the limitation as to the amount of the capital stock of gas companies organized under chapter one hundred and ten of the Revised Laws shall not apply to said Boston Consolidated Gas Company.

May issue additional stock, etc.

SECTION 5. Any stockholder of any corporation selling under authority of section three who does not assent to the purchase authorized by this act may within thirty days after the day of the meeting of the selling corporation at

Value of shares of dissenting stockholders, how determined, etc.

which such sale is voted, file with the clerk of said corporation a writing declaring his dissent therefrom and stating the number of shares held by him and the number or numbers of the certificate or certificates evidencing the same. The shares of any stockholder dissenting, as above specified, may be valued as hereinafter provided, and the value thereof shall in such case be paid, tendered or deposited to or for account of such stockholder in the manner following:— Within thirty days after the filing of any stockholder's dissent, as above provided, such stockholder may file a petition in the supreme judicial court sitting within and for the county of Suffolk, setting forth the material facts and praying that the value of his shares may be determined. Thereupon, and upon such notice to all parties concerned as it may deem proper, said court shall pass an order requiring such dissenting stockholder's certificate or certificates of stock, duly endorsed, to be deposited with the clerk of said court, and shall appoint three commissioners to ascertain and report the value of such dissenting stockholder's shares. Such report shall be made to the court as soon as practicable, and after due notice to the parties in interest, shall be confirmed by the court, unless some error of law be made to appear upon the face of the report, in which event it shall be recommitted to the commissioners with such order as the court may make, or unless either of the parties to said proceedings shall claim a trial by jury, in which latter event the court shall order the question of the value of the shares to be tried and determined by a jury in the same manner as other civil cases are tried in that court. Upon the payment, or tender, or deposit of the value of said shares, fixed as aforesaid, the shares of such dissenting stockholder and the certificate or certificates thereof shall be transferred to and become the property of the selling corporation, whose right and title thereto and possession thereof may be enforced by the court by any appropriate order or process. Exceptions may be taken to any ruling or order by said court, to be heard and determined by the full court as in other civil cases. The court may make all such orders for the enforcement of the rights of any party to the proceedings, for the consolidation of two or more petitions and their reference to the same commissioners, for the consolidation of claims for a trial by jury, for the deposit of money in court, and for the pay-

Exceptions
may be taken.

ment of interest upon the value of the stockholders' shares as determined, and the payment of costs by one party to the other, as justice and the speedy settlement of the matters in controversy may require.

SECTION 6. Said Boston Consolidated Gas Company shall not purchase any gas until the board of gas and electric light commissioners have found after public hearing that the price to be paid for the gas to be purchased is less than it would cost said Boston Consolidated Gas Company to make its gas in gas works of standard type properly equipped, suitably situated and of sufficient capacity to make all the gas required by the whole district supplied by said company. Said board may from time to time determine the period or periods during which said company may so purchase its gas at the price aforesaid; and no contract for the purchase of gas for more than thirty days shall be made without the approval of said board. No contract which the Boston Consolidated Gas Company shall make for the purchase of any portion of its gas shall in any respect affect any authority conferred on said board by this act or by section thirty-four of chapter one hundred and twenty-one of the Revised Laws or by any general laws which may hereafter be in force to fix the price to be charged by said company for gas.

Contracts for purchase of gas to be approved by gas and electric light commissioners, etc.

SECTION 7. If in the conduct of its business said Boston Consolidated Gas Company shall deem it advisable to sell and convey any real estate conveyed to it for the purposes of this act, or if any part of such real estate shall hereafter be taken in the exercise of the right of eminent domain, the proceeds of such sale or sales or condemnation or taking shall be applied, with the approval of the board of gas and electric light commissioners, to the payment and cancellation of obligations of the company, or, with like approval, to any of the purposes for which said board might approve the issue of new capital stock, and, if not thereby exhausted, to the reduction of the capital stock of the company upon such terms as the board may approve.

Disposition of proceeds of sale, etc., of certain real estate.

SECTION 8. If in the judgment of the board of gas and electric light commissioners such action is demanded in the public interest, said board shall have authority to require said Boston Consolidated Gas Company to provide, either by the repair or reconstruction of existing works, or by the construction of new works, works for the manufacture of

Gas and electric light commissioners may require suitable works to be constructed, etc.

gas of such capacity as in the judgment of the board may be suited to the needs of the whole district supplied by said company.

1896, 537,
§ 5, amended.
193 Mass. 359.

To petition for
certain rights
in cities and
towns, etc.

SECTION 9. Section five of chapter five hundred and thirty-seven of the acts of the year eighteen hundred and ninety-six, entitled "An Act to incorporate the Massachusetts Pipe Line Gas Company", is hereby amended by striking out the word "shall", in the ninth and sixteenth lines, and inserting in place thereof, in each instance, the word: — may, — so as to read as follows: — *Section 5.* If the company shall desire for its pipe lines the right to construct, maintain and operate the same in the streets, lanes and highways of any city or town, it shall petition the aldermen or selectmen therefor, stating the termini of such pipe line in such city or town with as much particularity and certainty as practicable, and stating the streets, highways and lanes in which the company desires to locate such pipe line; and the aldermen or selectmen may grant that location, or such other location in such streets, lanes and highways as they shall deem proper. In the event that said aldermen or selectmen shall for a period of thirty days refuse or neglect to grant a location, or if the company is dissatisfied with the location granted, it may within sixty days thereafter appeal to the board, who, after such hearing and notice as they shall deem proper, may grant to the company reasonable locations between said termini for such pipe line in the streets, lanes and highways of said city or town. Upon the granting of such locations by said aldermen, selectmen or board, the company may lay, construct, maintain and operate such pipe line in the location granted. Similar rights as to additional pipe lines in the same city or town shall be obtained only by permission of the board. The company may, upon obtaining such locations, and subject to such regulations and restrictions in respect to the manner and time of conducting the work as said aldermen or selectmen shall prescribe, dig up and open the ground in any of the streets, lanes and highways of said city or town so far as is necessary to accomplish the object of the corporation; but such grant shall not affect the right or remedy to recover damages for an injury caused to persons or property by the doings of the company. It shall put all such streets, lanes and highways which are opened by it in as

good repair as they were when opened, and to the satisfaction of the local authorities of the city or town in which such streets, lanes or highways are located, and upon failure so to do within a reasonable time shall be deemed guilty of a nuisance. In constructing, maintaining, repairing or extending its distributing system in any city or town the company shall be subject to all the restrictions, regulations and liabilities set forth in section seventy-five of chapter one hundred and six of the public Statutes, except as in this act provided; and in the construction, maintaining, repairing and extending of its pipe lines and distributing systems it shall in all cases be subject to the restrictions, regulations and liabilities set forth in sections seventy-six and seventy-seven of said chapter one hundred and six. If in making such excavations any water or gas pipes, sewers, drains, conduits or other subterranean works are disturbed or interfered with, the same shall, at the expense of the company, be restored to as good condition as they were in before such excavation. All locations granted under this section shall be subject to revocation by said aldermen or selectmen respectively, subject to the approval of said board.

Locations
granted sub-
ject to revo-
cation.

SECTION 10. Section six of said chapter five hundred and thirty-seven is hereby amended by inserting after the word "board", in the second line, the words: — and with the consent of the mayor and aldermen of any city or the selectmen of any town in which the works, distributing system and other property hereinafter mentioned are situated, — so as to read as follows: — *Section 6.* The company may, subject to approval of the board, and with the consent of the mayor and aldermen of any city or the selectmen of any town in which the works, distributing system and other property hereinafter mentioned are situated, and upon such terms and conditions as may be mutually agreed upon, and as may be approved by the board, purchase, lease or operate the works, distributing system and other property of any person, firm, corporation, town or city engaged in the business of selling or distributing gas, or any portion of such works, distributing system or other property in any city or town in which the company has laid a pipe line: *provided, however,* that nothing in this act shall authorize the company to issue new capital stock or bonds for the

1896, 537,
§ 6, amended.

May purchase,
lease, etc.,
other systems.

Proviso.

purpose of such purchase in excess of the amount issued by the corporation whose works are purchased; and such person, firm, corporation, town or city may sell or lease any of its works, distributing system or other property to the company as aforesaid. The company may thereupon use the said works, distributing system or other property for the purpose of selling gas to the inhabitants of the town or city within which the same are situated; *provided, however,* that in case of any such purchase, lease or operating contract, the prices charged by the company to individual consumers or for public lights shall thereafter be subject to the jurisdiction of the board, as provided by section nine of chapter three hundred and fourteen of the acts of the year eighteen hundred and eighty-five, and shall not in any case exceed the prices ruling at the time of such purchase, lease or operating contract; nor shall the company discontinue any portion of the distributing system it may acquire by any such purchase, lease or operating contract, but shall be subject to the provisions of section five of chapter three hundred and forty-six of the acts of the year eighteen hundred and eighty-six.

Proviso.

Certain provisions of law not to apply to the Boston Consolidated Gas Company.

SECTION 11. So much of section seven of said chapter five hundred and thirty-seven as fixes the price to be charged by the Massachusetts Pipe Line Gas Company for fuel or illuminating gas shall not apply to said Boston Consolidated Gas Company; but the final limitation of said section prohibiting the sale of gas to individual consumers, except as provided in section six of said chapter, shall apply to it except in any city or town or division or district thereof, if less than the whole, where individual consumers are now supplied by its constituent companies, and any contract for the sale of gas by said Boston Consolidated Gas Company to any other gas company, or to any city or town, shall be subject to the approval of the board of gas and electric light commissioners. Sections two and four of chapter forty-one of the acts of the year eighteen hundred and twenty-two, entitled "An Act to incorporate the Boston Gas Light Company", shall not apply to said Boston Consolidated Gas Company.

When amendments shall take effect.

SECTION 12. The amendments made by the three preceding sections shall not take effect until said Boston Consolidated Gas Company has acquired, as provided in sec-

tion three, the property, locations, rights, licenses, powers, privileges and franchises of all the corporations mentioned in section one.

SECTION 13. All stock of any corporation mentioned in section one received by said Boston Consolidated Gas Company as part of the transaction authorized by this act shall become the property of said company. Such stock shall not be sold, assigned, pledged, transferred or conveyed in whole or in part, by the purchasing corporation, and shall be non-negotiable, and whenever all the property, locations, licenses, rights, powers, privileges and franchises of any of the corporations mentioned in section one shall have been transferred to and vested in said Boston Consolidated Gas Company, as aforesaid, and the indebtedness of said selling company paid, such selling company shall be dissolved in the manner provided by law upon its petition, upon the petition of the Boston Consolidated Gas Company, or upon the petition of the board of gas and electric light commissioners; and the supreme judicial court shall be authorized, upon the petition of the board of gas and electric light commissioners, to enforce any provision of this act.

Certain stock to become the property of Boston Consolidated Gas Company, etc.

Enforcement of provisions.

[SECTION 14. Unless all the corporations named in section one shall within two years after the passage of this act convey their property to the said Boston Consolidated Gas Company, in accordance with the provisions of this act, or within such further time not exceeding three years as the board of gas and electric light commissioners may for good cause determine, the powers conferred by this act shall expire and terminate. Said Boston Consolidated Gas Company shall have no authority to make, purchase, sell or distribute gas or electricity until it shall, within the provisions of this act, have acquired all the property, locations, rights, licenses, powers, privileges and franchises of all the corporations mentioned in section one.]

Act to terminate, etc., unless certain provisions are complied with. Repealed. 1905, 421, § 2.

Section 14. Said Boston Consolidated Gas Company shall not acquire the property, locations, rights, licenses, powers, privileges and franchises of the several corporations mentioned in section one unless it shall before the first day of August in the year nineteen hundred and five, file with the board of gas and electric light commissioners its acceptance hereof, and an agreement that it will within

Acceptance and agreement to be filed. 1905, 421, § 2.

twelve months from the date of such acquisition reduce the maximum price of gas to be charged by it to ninety cents per thousand cubic feet.

Not to make or distribute, etc., gas or electricity until certain property is acquired, etc.

Said Boston Consolidated Gas Company shall have no authority to make, purchase, sell or distribute gas or electricity until it shall, within the provisions of this act, have acquired all the property, locations, rights, licenses, powers, privileges and franchises of all the corporations mentioned in section one, and the Boston Consolidated Gas Company shall proceed forthwith to acquire the same.

Par value of capitalization. (New section.) 1905, 421, § 3.

Section 15. The Boston Consolidated Gas Company shall not by the acceptance of the capitalization herein authorized be deemed to have admitted for any purpose that the par value of such capitalization is equal to the value of its property or to the value of the property necessary for the proper conduct of its business.

To be entitled to certain rights, etc., upon the acquisition of certain property. (New section.) 1905, 421, § 3.

Section 16. Said Boston Consolidated Gas Company, upon the acquisition of the property of the corporations mentioned in section one, shall be entitled to all those rights, powers and privileges set forth in chapter thirty-four of the Revised Laws and in any amendments thereof, and particularly in section ten of said chapter, to which it would have been entitled if it had been the owner of said properties and engaged in the business of generating or distributing gas or electricity for sale for lighting purposes in the city of Boston at the time of any votes or proceedings heretofore or hereafter passed or taken by the city of Boston, under the provisions of said chapter, or of any acts in amendment thereof.

SECTION 15. This act shall take effect upon its passage.

[Approved June 10, 1903.]

ACTS OF 1906, CHAPTER 422.

AN ACT TO PROMOTE THE REDUCTION OF THE PRICE OF GAS IN THE CITY OF BOSTON AND ITS VICINITY.

SECTION 1. From and after the thirtieth day of June in the year nineteen hundred and six, the standard price to be charged by the Boston Consolidated Gas Company for gas supplied to its customers shall be ninety cents per one thousand cubic feet, which price shall not thereafter be increased except as hereinafter provided. From and after the said date the standard rate of dividends to be paid by said company to its stockholders shall be seven per cent per annum on the par value of its capital stock, which rate shall not thereafter be increased except as hereinafter provided.

Fixing the standard price of gas in Boston, etc.

SECTION 2. If during any year ending on the thirtieth day of June the maximum net price per thousand feet charged by the company has been less than the standard price, the company may during the following year declare and pay dividends exceeding the standard rate in the ratio of one fifth of one per cent for every one cent of reduction of said maximum net price below the standard price.

If price charged is less than standard price, dividends may be paid at an increased rate.

SECTION 3. Said company shall annually publish in the month of September, in one or more newspapers published in the city of Boston, a report showing for the previous fiscal year, among other things, the cost per thousand feet to such company of gas in the holder, itemizing said cost so as to show the cost per thousand feet for gas manufactured, of wages at works and of the main items of materials; also the cost per thousand feet of distribution; also the amount per thousand feet, if any, charged as depreciation of ways, works and machinery; also the amount per thousand feet, if any, charged for maintenance repairs; together with such other items of account as may from time to time be prescribed by the board of gas and electric light commissioners.

Annual report to be published, etc.

SECTION 4. Said board shall have authority upon petition of the mayor or board of aldermen of a city or of the selectmen of a town in which said company is furnishing gas, and after hearing the company, to revise the method of determining the cost of gas supplied by said company, and to determine finally and conclusively the actual cost

Method of determining cost of gas, etc., may be revised.

of the gas furnished and the clear profits made by said company applicable to the payment of dividends for the year ending on June thirtieth. Any orders made by said board shall be enforceable as provided by section nine of chapter one hundred and twenty-one of the Revised Laws.

If profits exceed amount necessary to pay dividends, excess may be invested, etc.

SECTION 5. If the clear profits of the company applicable to the payment of dividends amount in any year to a larger sum than is sufficient to pay the dividends which the company is herein authorized to pay during the next succeeding year, the excess above the sum necessary for that purpose may from time to time, to the extent of one per cent per annum of the par value of the capital of the company, be invested in securities in which savings banks incorporated under the laws of this Commonwealth are authorized by law to invest, and the dividends and interest arising from such securities shall also be invested in the same or like securities, in order that the same may accumulate at compound interest until the fund so formed amounts to a sum equal to one twentieth of the par value of the capital stock of the company, which sum shall form a reserve fund: *provided*, that when and so often as the said fund shall by reason of the accumulation of interest or dividends or otherwise exceed one twentieth of the par value of the capital stock, the excess shall be carried to the credit of the clear profits of the company applicable to the payments of dividends. The company may from time to time use said fund or any portion thereof to meet any extraordinary claim, demand, or charge which may at any time arise against or fall upon the company from fire, accident, or other circumstances which due care and management could not have prevented; and whenever in any year the clear profits of the business of the company for the preceding year applicable to the payment of dividends are insufficient to enable it to pay the dividends which the company is herein authorized to pay, it may apply said fund, or such portion thereof, as may be necessary, toward the payment of the dividends which the company is herein authorized to pay for such year. If the reserve fund be reduced at any time, it may thereafter again be made up to one twentieth of the par value of the capital stock of the company, and so from time to time as often as such reduction shall happen; *provided*, that resort may be had to the reserve fund for any of the purposes

Provisos.

above mentioned, although such fund may not at the time have reached or may have been reduced below the full amount of one twentieth as aforesaid.

SECTION 6. If in any year the amount of the clear profits of the business of the company applicable to the payment of dividends exceeds the amount required to pay the dividends herein authorized to be paid during the next succeeding year, and the amounts which are herein authorized to be set aside for the reserve fund, the excess of such profits shall be paid to the cities and towns in which the company is supplying gas, in proportion to the number of miles of mains in each of such cities and towns.

Excess of profits in certain cases to be paid to cities and towns supplied with gas.

SECTION 7. Whenever the company shall issue additional stock, it shall be the duty of the board of gas and electric light commissioners in deciding what amount of new stock is to be authorized, to place a value upon such new stock, which value shall be stated in their written decision, and before offering the new shares to the existing shareholders of the company, the company shall offer the new shares for sale by public auction in the city of Boston, in such manner, at such times, and subject to such conditions of sale as the company shall from time to time determine, subject however, to the approval of the board of gas and electric light commissioners: *provided*, that no bid at any such auction shall be accepted for a price less than the value placed upon the stock by the board of gas and electric light commissioners as aforesaid; and *provided, further*, that notice of the proposed sale of said stock by public auction together with the terms and conditions of sale shall be published in at least three newspapers in the city of Boston twice a week for not less than three successive weeks before the day of auction.

Board of gas and electric light commissioners to decide what amount of new stock may be issued.

Provisos.

SECTION 8. When any stock which has been offered for sale by auction is not sold, the same shall be offered at the price so placed upon it by the board of gas and electric light commissioners to the stockholders of the company, in accordance with the provisions of section thirty of chapter one hundred and nine of the Revised Laws: *provided*, that any stock so offered and not accepted by the stockholders shall again be offered for sale by public auction, in accordance with the provisions of section thirty-one of chapter one hundred and nine of the Revised Laws; and *provided, further*, that if the new stock authorized does

Stock offered for sale to be at a price fixed by the board, etc.

Provisos.

not exceed four per cent of the existing capital stock of the company the same may be sold in accordance with the provisions of said section thirty-one without being first offered to the stockholders.

Regulations concerning the lowering or raising of standard price.

SECTION 9. At any time after the expiration of ten years from the thirtieth day of June in the year nineteen hundred and six, the board of gas and electric light commissioners shall have authority upon the petition of the company, or upon the petition of the mayor of any city or of the selectmen of any town in which the company is supplying gas to consumers, to lower or raise the standard price per thousand cubic feet to such extent as may justly be required by reason of greater or less burdens which may be imposed upon the company, by reason of improved methods in the art of manufacture, by reason of changes in the prices of material and labor, or by reason of changes in other conditions affecting the general cost of the manufacture or distribution of gas.

Certain provisions of law not to apply, etc.

SECTION 10. The provisions of sections thirty-four and thirty-five of chapter one hundred and twenty-one of the Revised Laws, so far as they relate to the fixing of the price of gas, shall not hereafter apply to the Boston Consolidated Gas Company. But nothing herein shall be construed as affecting any right or liability which may arise under chapter thirty-four of the Revised Laws, or acts in amendment thereof or in addition thereto, or under any other acts not inconsistent herewith.

Time within which act may be accepted.

SECTION 11. Unless the Boston Consolidated Gas Company shall, by authority of its board of directors, accept the provisions of this act within sixty days after its passage by a writing filed with the board of gas and electric light commissioners, this act shall be void.

SECTION 12. This act shall take effect upon its passage.

[Approved May 26, 1906.]

ABATEMENT OF SMOKE.

ACTS OF 1910, CHAPTER 651.

AN ACT TO PROVIDE FOR THE ABATEMENT OF SMOKE IN THE CITY OF BOSTON AND VICINITY.

SECTION 1. In this act unless the context otherwise requires: Certain words and terms defined, etc.

“Board” means the board of gas and electric light commissioners.

“District” means the district to which the provisions of this act shall apply, to wit: — That part of Boston harbor lying westerly of a line drawn from the southeastern point of Deer island to the northeastern point of Long island and the territory comprised within the cities of Boston, Cambridge, Somerville, Everett and Chelsea and the town of Brookline.

“Chart” means Ringelmann’s Smoke Chart as published and used by the United States Geological Survey.

“Stack” means any chimney, smoke stack or other structure whether of brick, metal or other material intended for the emission of smoke. Smoke-jacks on locomotive round houses shall be deemed stacks and a part of the locomotive beneath them for the time being.

For the purposes of this act, stacks shall be classified as follows: —

Class I includes all fixed or stationary stacks having an inside area at the top not exceeding the area of a circle five feet in diameter.

Class II includes all fixed or stationary stacks having an inside area at the top greater than the area of a circle five feet in diameter but not exceeding the area of a circle ten feet in diameter.

Class III includes all fixed or stationary stacks having an inside area at the top greater than the area of a circle ten feet in diameter.

Class IV includes all stacks of vessels having an inside area at the top not exceeding the area of a circle four feet in diameter.

Class V includes all stacks of vessels having an inside area at the top greater than the area of a circle four feet in diameter.

Class VI includes all stacks on steam locomotives.

Limiting time
in which the
emission of
smoke may
be permitted.

SECTION 2. The emission of smoke of a degree of darkness or density equal to No. 2 of the chart or greater, for more than six minutes in any one hour from stacks of Class I; or of a degree equal to No. 3 of the chart or greater, for more than three minutes in any one hour from stacks of Class II; or of a degree equal to No. 2 of the chart or greater, for more than twenty-five minutes in any one hour, but not exceeding during said twenty-five minutes a degree equal to No. 3 of the chart or greater for more than five minutes from stacks of Class III; or of a degree equal to No. 3 of the chart or greater for more than three minutes in any one hour from stacks of Class IV, for more than five minutes in any one hour from stacks of Class V, and for more than twenty seconds in any one period of five minutes from stacks of Class VI, is hereby prohibited.

Proviso.

Provided, however, that during the calendar year nineteen hundred and ten, smoke of a degree of darkness or density equal to No. 3 of the chart or greater, may be emitted for not more than six minutes in any one hour from stacks of Class I; and smoke of a degree equal to No. 4 of the chart or greater, for not more than five minutes in any one hour from stacks of Class II, and for not more than ten minutes in any one hour from stacks of Class III, and for not more than nine minutes in any one hour from stacks of Class IV, and for not more than twelve minutes in any one hour from stacks of Class V; and of a degree equal to No. 3 of the chart or greater for not more than forty seconds in any one period of five minutes from stacks of Class VI; and during the calendar year nineteen hundred and eleven, smoke of a degree of darkness or density equal to No. 3 of the chart or greater may be emitted for not more than four minutes in any one hour from stacks of Class I, and for not more than ten minutes in any one hour from stacks of Class II; and of a degree equal to No. 3 of the chart or greater for not more than twenty minutes in any one hour, but not exceeding during said twenty minutes a degree equal to No. 4 of the chart or greater for more than five minutes from stacks of Class

III; and of a degree equal to No. 3 of the chart or greater for not more than twelve minutes in any one hour from stacks of Class IV, and for not more than fifteen minutes in any one hour from stacks of Class V, and for not more than thirty seconds in any one period of five minutes from stacks of Class VI; and during the calendar year nineteen hundred and twelve, smoke of a degree of darkness or density equal to No. 2 of the chart or greater, may be emitted for not more than eight minutes in any one hour from stacks of Class I; and of a degree equal to No. 3 of the chart or greater, for not more than six minutes in any one hour from stacks of Class II; and of a degree equal to No. 2 of the chart or greater for not more than thirty minutes in any one hour, but not exceeding during said thirty minutes a degree equal to No. 3 of the chart or greater for more than ten minutes from stacks of Class III; and of a degree equal to No. 3 of the chart or greater for not more than seven minutes in any one hour from stacks of Class IV, and for not more than nine minutes in any one hour from stacks of Class V.

And *provided further*, that stacks of locomotives, moving trains of six cars or more, be permitted to emit smoke in any five-minute period for ten seconds in excess of that already provided for in this act, and that stacks of Class VI, in and about round houses, may emit smoke for thirty minutes during the period when the fire is being built, or rebuilt after cleaning. The number of minutes or seconds during which smoke may be emitted in any period as provided in this section shall be deemed to mean the aggregate number of minutes or seconds, and such minutes or seconds need not be consecutive. Proviso.

ABATEMENT OF SMOKE.

Table showing density of smoke. TABLE SHOWING THE DENSITY OF SMOKE, IN ACCORDANCE WITH THE RINGELMANN CHART, WHICH MAY BE EMITTED FROM THE VARIOUS CLASSES OF STACKS AS PROVIDED IN SECTION 2, AND THE DURATION OF SUCH EMISSION.

CLASSES	1		2		3		4	
	Chart No.	Mins.	Chart No.	Mins.	Chart No.	Mins.	Chart No.	Mins.
1910 . .	3	6	4	5	4	10	4	9
1911 . .	3	4	3	10	3 including 4	20 including 5	3	12
1912 . .	2	8	3	6	2 including 3	30 including 10	3	7
1913 . .	2	6	3	3	2 including 3	25 including 5	3	3

CLASSES	5		6		LOCOMOTIVES MOVING TRAINS OF SIX CARS OR MORE.	
	Chart No.	Mins.	Chart No.	No. seconds in 5-minute periods.	Chart No.	No. seconds in 5-minute periods.
1910 . .	4	12	3	40	3	50
1911 . .	3	15	3	30	3	40
1912 . .	3	9	3	20	3	30
1913 . .	3	5	3	20	3	30

Smoke inspector, appointment, etc.

SECTION 3. The board shall appoint a smoke inspector who shall not engage in any other business, and such deputy inspectors as it may think proper, who shall be sworn to the faithful performance of their duties and shall hold office during the pleasure of the board. The board may also employ such clerks, stenographers and other office employees as it may deem necessary, and may expend for necessary office rent, books, stationery, travel and other expenses incidental to the performance of the duties imposed by this act, such sum as the legislature shall annually appropriate. The compensation of inspectors, deputy inspectors and all other employees shall be fixed by the board, subject to the approval of the governor and council. All salaries and other expenses provided for by this act shall be paid by the commonwealth, which shall be reimbursed as hereinafter provided.

The board of gas and electric light commissioners to enforce provisions of act.

SECTION 4. It shall be the duty of the board to enforce the provisions of this act, to investigate all complaints made with reference to any violations thereof, and in its discretion, to order any person or corporation complained

of to comply with the provisions of this act, and to enforce such orders by legal proceedings. The board shall make an annual report to the general court of its doings with such recommendations as to legislative action or state policy as it may deem advisable. The board, with the approval of the governor and council, may make such rules and regulations as it deems advisable for its own government, for the government of its employees and assistants, for the observation of smoke by the inspector or his duly authorized agents at reasonable intervals, and for keeping proper records of all observations. Such observations and records shall be open to public inspection at reasonable times and under reasonable regulations.

Annual report.

SECTION 5. It shall be the duty of the smoke inspector, by himself and his assistants, to assist the board in the performance of its duties, in such manner as the board shall direct, to investigate complaints as to violations of this act, to collect evidence in regard to the same and present such evidence to the board for action.

Duties of smoke inspector.

SECTION 6. The board shall have power, after notice and a hearing, to order any person or corporation having control of the operation of the stack, other than an employee, to stop or abate the emission of smoke in violation of this act. Such notice shall be in writing and may be served personally upon such person or corporation, or duly authorized agent by any person authorized by the board to make such service, and in the manner provided by the laws of the commonwealth for the service of writs returnable to the superior court. Such notice shall be served at least forty-eight hours before the time fixed for the hearing, and a copy of the order or decree of the board, shall in like manner be served upon such person or corporation or duly authorized agent within twenty-four hours after the same shall be made by the board. In the event of violation, a copy of the observation made in accordance with section four shall be mailed within twenty-four hours to the person or corporation having control of the operation of the stack, and an additional copy shall be delivered upon the premises, as soon as is practicable to the employee having charge of the stack, unless it is otherwise requested in writing by any such person or corporation.

Powers of the board in abating the emission of smoke, etc.

SECTION 7. Any person or corporation violating any order of the board shall be guilty of a misdemeanor and may be punished by a fine of not less than ten nor more

Penalty, etc.

than fifty dollars for the first offence and not less than twenty nor more than one hundred dollars for every succeeding offence. No person or corporation shall be deemed guilty in accordance herewith, unless the observations, used as evidence at the trial, shall be made as provided in section four. The superior court sitting in equity, on petition of the board or any person authorized by the board, shall have jurisdiction to restrain violations of this act during the prosecution of any proceeding at law for the enforcement of any order of the board.

Temporary permits may be granted, etc.

SECTION 8. Temporary permits for the emission of smoke, covering periods not exceeding six months from June first, nineteen hundred and ten, may be granted by the board to any person duly applying for the same and satisfying the board that he will make changes or improvements to prevent the emission of smoke in violation of the provisions hereof. But after December first, nineteen hundred and ten, no further permits shall be granted unless the board is satisfied that public convenience requires it, and permits so granted shall be for a period not exceeding six months.

Apportionment of expense, etc.

SECTION 9. The board shall annually estimate the expense of carrying this act into effect for the ensuing year and shall certify the same to the treasurer of the commonwealth who shall apportion said expense among the cities and towns comprised in the district in proportion to the amount of their state tax, and the treasurer shall annually notify each city and town of the amount to be paid by it, and the same shall be paid by such city or town into the treasury of the commonwealth at the time required for the payment of, and as a part of, its state tax.

Repeal, etc.

SECTION 10. All acts and parts of acts inconsistent herewith are hereby repealed, and this act shall take effect on the first day of July, nineteen hundred and ten. [*Approved June 15, 1910.*]

A TABLE OF SPECIAL LAWS

RELATING TO THE

MANUFACTURE AND SALE OF GAS AND ELECTRICITY.

1822.

- C. 41. — An Act to incorporate the Boston Gas Light Company.

1825.

- C. 29. — An Act to incorporate the Massachusetts Gas Light Company.

1833.

- C. 202. — An Act to incorporate the Lowell Gas Light Company.

1836.

- C. 17. — An Act in Addition to an Act entitled "An Act to incorporate the Boston Gas Light Company."

1837.

- C. 74. — An Act in Addition to "An Act to incorporate the Boston Gas Light Company."
C. 91. — An Act to incorporate the Lowell Gas Company.

1846.

- C. 36. — An Act to incorporate the Tremont Gas Light Company.
C. 37. — An Act to incorporate the Lowell Gas Company.
C. 98. — An Act to incorporate the Charlestown Gas Company.

1847.

- C. 15. — An Act to incorporate the Springfield Gas Light Company.
C. 21. — An Act to incorporate the Massachusetts Solar Gas and Foundry Company.
C. 67. — An Act to incorporate the Salem Gas Light Company.

1848.

- C. 20. — An Act to incorporate the Sylvic Gas Light Company.
C. 38. — An Act authorizing the Massachusetts Solar Gas and Foundry Company to change its Name.

1849.

- C. 17. — An Act to incorporate the Lawrence Gas Company.
- C. 234. — An Act to incorporate the Lowell Gas Light Company.

1850.

- C. 29. — An Act to incorporate the Worcester Gas Light Company.
- C. 144. — An Act to incorporate the New Bedford Gas Light Company.
- C. 147. — An Act to incorporate the Newburyport Gas Company.
- C. 202. — An Act to incorporate the Suffolk Gas Company.
- C. 237. — An Act in Addition to an Act to incorporate the Worcester Gas Light Company.

1851.

- C. 159. — An Act to incorporate the Worcester Gas Light Company.

1852.

- C. 36. — An Act to incorporate the Cambridge Gas Light Company.
- C. 102. — An Act to incorporate the Winchester Gas Light Company.
- C. 103. — An Act to incorporate the South Boston Gas Light Company.
- C. 109. — An Act to increase the Capital Stock of the Boston Gas Light Company.
- C. 179. — An Act to incorporate the Chelsea Gas Light Company.
- C. 198. — An Act to incorporate the Roxbury Gas Light Company.
- C. 208. — An Act to incorporate the "Fitchburg Gas Company."
- C. 300. — An Act in Addition to an Act entitled "An Act to incorporate the Chelsea Gas Light Company."

1853.

- C. 3. — An Act to incorporate the Taunton Gas Light Company.
- C. 8. — An Act to incorporate the Haverhill Gas Light Company.
- C. 13. — An Act to incorporate the East Boston Gas Company.
- C. 17. — An Act to incorporate the Brookline Gas Light Company.
- C. 18. — An Act to incorporate the Gloucester Gas Light Company.
- C. 21. — An Act to incorporate the Pittsfield Coal Gas Company.
- C. 24. — An Act to authorize the Charlestown Gas Company to extend their Pipes and Conductors into the Town of Somerville.
- C. 29. — An Act to incorporate the Brighton Gas Light Company.
- C. 35. — An Act to incorporate the Lynn Gas Light Company.
- C. 39. — An Act to authorize the Salem Gas Light Company to extend their Pipes.
- C. 50. — An Act to incorporate the Ware Gas Light Company.
- C. 51. — An Act to incorporate the Pawtucket Gas Light Company.

- C. 59. — An Act to incorporate the Northampton Gas Light Company.
- C. 63. — An Act to incorporate the Jamaica Plain Gas Light Company.
- C. 68. — An Act to incorporate the Dedham Gas Light Company.
- C. 118. — An Act to incorporate the Waltham Gas Light Company.
- C. 128. — An Act to incorporate the Plymouth Gas Light Company.
- C. 137. — An Act to authorize the Cambridge Gas Light Company to extend their Gas Pipes into the Town of Somerville.
- C. 163. — An Act to authorize the Haverhill Gas Light Company to extend their Gas Pipes into the Town of Bradford.
- C. 320. — An Act to authorize the South Boston Gas Light Company to extend their Gas Pipes into the Town of Dorchester.
- C. 395. — An Act to incorporate the American Gas Light Company.

1854.

- C. 5. — An Act to incorporate the Quincy Gas Light Company.
- C. 9. — An Act to incorporate the Dorchester Gas Light Company.
- C. 19. — An Act to incorporate the Nantucket Gas Light Company.
- C. 21. — An Act to incorporate the Salisbury and Amesbury Gas Light Company.
- C. 35. — An Act to incorporate the Marblehead Gas Light Company.
- C. 43. — An Act to incorporate the Malden and Melrose Gas Light Company.
- C. 44. — An Act to incorporate the Newton and Watertown Gas Light Company.
- C. 62. — An Act to incorporate the Clinton Gas Light Company.
- C. 99. — An Act to incorporate the New England Gas Regulator Manufacturing Company.
- C. 104. — An Act in Addition to an Act to incorporate the Brookline Gas Light Company.
- C. 194. — An Act to incorporate the Provincetown Gas Light Company.
- C. 203. — An Act to incorporate the Medford Gas Light Company.
- C. 207. — An Act to incorporate the West Cambridge Gas Light Company.
- C. 211. — An Act to incorporate the Woburn Gas Light Company.
- C. 212. — An Act to incorporate the Greenfield Gas Light Company.
- C. 242. — An Act to incorporate the Milford Gas Light Company.
- C. 247. — An Act to incorporate the Boston Gas Meter Manufacturing Company.
- C. 291. — An Act to incorporate the Somerville Gas Light Company.
- C. 321. — An Act to incorporate the Shawmut Gas Light Company in the City of Boston.
- C. 443. — An Act to unite the Malden Gas Light Company and the Medford Gas Light Company.

1855.

- C. 357. — An Act to unite the Shawmut Gas Light Company and the Suffolk Gas Company.

1856.

- C. 8. — An Act authorizing an Increase of the Capital Stock of the Lawrence Gas Company.
- C. 194. — An Act authorizing the Fitchburg Gas Company to supply the Inhabitants of Fitchburg with Water.
- C. 242. — An Act to repeal "An Act to incorporate the Tremont Gas Light Company."
- C. 280. — An Act in Addition to an Act to incorporate the Malden and Melrose Gas Light Company.

1857.

- C. 4. — An Act to increase the Capital Stock of the New Bedford Gas Light Company.
- C. 137. — An Act relating to the Roxbury Gas Light Company.

1859.

- C. 45. — An Act to incorporate the Reading and Stoneham Gas Light Company.

1860.

- C. 22. — An Act authorizing an Increase of the Capital Stock of the Chelsea Gas Light Company.
- C. 28. — An Act to incorporate the Union Gas Light Company in Attleborough.
- C. 36. — An Act to incorporate the Citizens' Gas Light Company of Quincy.
- C. 66. — An Act to authorize the Charlestown Gas Company to extend their Pipes and Conductors into the Town of Medford.
- C. 94. — An Act to authorize the Newton and Watertown Gas Light Company to extend their Pipes into the Town of Brighton.
- C. 151. — An Act to amend an Act in Addition to an Act to incorporate the Brookline Gas Company.
- C. 177. — An Act relating to the Roxbury Gas Light Company.
- C. 204. — An Act to authorize the West Cambridge Gas Light Company to extend their Pipes and Conductors into the Towns of Winchester and Belmont.

1861.

- C. 26. — An Act to incorporate the Milton Gas Light Company.
- C. 41. — An Act to incorporate the North Adams Gas Light Company.
- C. 56. — An Act to incorporate the Abington Gas Light Company.
- C. 68. — An Act to incorporate the Natick Gas Light Company.

1862.

- C. 99.—An Act to increase the Capital Stock of the Boston Gas Light Company.

1863.

- C. 37.—An Act to increase the Capital Stock of the Springfield Gas Light Company.
C. 195.—An Act concerning the Malden and Melrose Gas Light Company.

1864.

- C. 56.—An Act concerning the Milton Gas Light Company and the Dorchester Gas Light Company.
C. 57.—An Act to incorporate the North Adams Gas Light Company.

1865.

- C. 25.—An Act to incorporate the Marlborough Gas Light Company.

1866.

- C. 27.—An Act to increase the Capital Stock of the Worcester Gas Light Company.

1867.

- C. 61.—An Act authorizing an Increase of the Capital Stock of the Lawrence Gas Company.
C. 62.—An Act to incorporate the Manufacturers' Gas Company of Fall River.
C. 114.—An Act to authorize the East Boston Gas Company to increase its Capital Stock.
C. 135.—An Act to incorporate the Union Gas Light Company.
C. 221.—An Act to change the Names of Certain Corporations in the Town of West Cambridge.

1868.

- C. 47.—An Act to authorize the Roxbury Gas Light Company to increase its Capital Stock.
C. 191.—An Act authorizing the Cambridge Gas Light Company to increase its Capital Stock.
C. 243.—An Act in Addition to "An Act to incorporate the Dedham Gas Light Company."

1869.

- C. 25.—An Act to increase the Capital Stock of the Worcester Gas Light Company.
C. 46.—An Act authorizing the Chelsea Gas Light Company to increase its Capital Stock.

- C. 51.—An Act to increase the Capital Stock of the Charlestown Gas Company.
- C. 52.—An Act to increase the Capital Stock of the Jamaica Plain Gas Light Company.
- C. 119.—An Act to authorize the Northampton Gas Light Company to increase its Capital Stock.
- C. 327.—An Act to authorize the Boston Gas Light Company to construct Pile Wharves.

1870.

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