



Main Lib.

Forestry



INTRODUCTION.

The last general edition of the forest laws of this Commonwealth was issued in 1909. Our supply of the little blue booklet in which these laws were contained has long since been exhausted. Since that time both the fire laws and gypsy moth laws have been amended, and special editions of these laws have been published, but our supply of these, too, has been used up. We do not include in this booklet the forest taxation law, because this act is bound in a separate pamphlet, and its inclusion in this booklet is unnecessary. This publication does not contain the shade-tree laws of the Commonwealth, although it might fittingly do so, because the enforcement of these laws does not come within the jurisdiction of the State Forester. We are always glad, however, to advise with any one in regard to these laws and other shade-tree problems.

The chapter on the work of the Massachusetts forestry department may help to make clear the meaning of the laws on which our work is based.

F. W. RANE,
State Forester.

JULY 1, 1918.

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MEMORANDUM

TO : [Illegible]

FROM : [Illegible]

SUBJECT : [Illegible]

[Illegible text follows, consisting of several paragraphs of faint, mostly illegible text.]

THE MASSACHUSETTS FORESTRY DEPARTMENT.

The work of the State Forester is divided into four branches, under separate administrative heads, as follows: gypsy moth, forest fires, forestry, and forest utilization. We do not mean to indicate that there is a distinct line of cleavage between these four branches and that each works independently of the other. The object of the State Forester, as stated by law, is the perpetuation, extension, protection, and proper management of the forest lands of the Commonwealth, both public and private (Acts of 1904, chapter 409, section 2). All of these branches work together to produce this result, and their work must interlock, as their interests are united.

Gypsy Moth Suppression.

The law provides that each individual town shall care for the suppression of the gypsy and brown-tail moths within its borders through a local superintendent appointed by the selectmen or mayors and approved by the State Forester. In carrying out measures for such suppression, the local superintendent acts under the direction of the State Forester, his deputized assistant, and district superintendents. We shall not go into detail in regard to the financing of this work as provided by law as the details are somewhat complicated. Suffice it to say that each town has a liability which is one twenty-fifth of one per cent. of its valuation. This sum, which amounts to only a few hundreds in small towns

and runs up to five thousand dollars in cities, the community must spend from its own funds, provided the conditions call for it. Where amounts in excess of the liability are spent by the towns, the whole or portion of said excess is reimbursed by the State to the town, such reimbursement depending upon the valuation of the town. Formerly such reimbursement was paid in money, but now such payments are made as far as possible in the form of supplies, as it has been found that the State can secure supplies cheaper than the towns and thus the money goes further.

In combating insects the State forester is limited to work against the gypsy and brown-tail moths. In regard to other insects he can act only in an advisory capacity, and if towns wish to combat such a pest they must do so at their own expense, through a special appropriation.

The State Forester is superintendent of moth work. He has an assistant who supervises the work of the five district moth superintendents. There is in addition a purchasing agent, who looks after the buying and distribution of the supplies used in the moth work and incidentally does the same service for the other branches of the Department.

Forest Utilization.

Special conditions sometimes call for an effort not specifically provided for by law, and such is the work of this branch. Owing to the depredations of the gypsy moth, a great deal of the oak timber in the eastern part of the State has been killed or partially killed, and the normal market for this material was overflowed, with the result that much valuable wood was going to waste because there was no profitable outlet for it. Furthermore, it has been scientifically dem-

onstrated that mixed woodland which has not yet been seriously infested can be in part protected by the removal of the trees most susceptible to the gypsy moth. The conditions that have come to pass in the oak woodlands of the eastern part of the State are also present in the chestnut stands of the central and western sections, because of the effects of the bark disease. For the purpose of finding a market for the unmarketable material, and to assist the owner in getting this material ready for the market, this branch of the work was organized. The utilization branch not only finds the market for the private owner but supervises the operation of the woodlot, placing the contracts for cutting, milling, etc., and selling the product. The owner, of course, pays all the costs except the supervision. Although this branch is at present chiefly interested in oak and chestnut and their products, the market information which it gathers extends to all species of wood and classes of products. The advantage to the Commonwealth of this work is that material which would likely go to waste is placed upon the market, and that woodlot owners, receiving a better price for their product than they were accustomed to receive, are encouraged to think better of forestry as a woodland investment than they otherwise would.

The forester in charge of this branch has two assistants, one in the field and one in the office, besides several field foremen who take charge of the cutting and logging operations on the estates under his care.

Forest Fire Prevention.

The work of fighting forest fires in each town is in the hands of a local forest warden, who is appointed by the mayor or selectmen with the approval of the State Forester. The

local wardens act under the general supervision of the State Fire Warden and his district deputies. The entire expense of fire fighting is borne by the towns, except in the case of railroad fires where they can collect from the corporation. The State Fire Warden can, however, compensate certain small towns for fifty per cent. of the value of fire-fighting equipment which they purchase with his approval. Aside from the supervision of local wardens the efforts of the State fire service are directed towards the prevention and quick detection of fires. The first line of work is carried out by the publishing of the fire laws on posters and by other means, the inspection of spark arresters on locomotives and the clearing of rights of way. The second is secured by a complete system of fire watch towers, now numbering thirty-six, which are connected by telephone with the local wardens in their district. Watchmen are maintained in these towers for about six or seven months in the year.

This Department maintains two fire trucks in the central and western parts of the State for use at fires which have got beyond the control of the local authorities.

The State Forester, as head of the fire service, deputizes his powers to a State Fire Warden, who has the assistance of fire district wardens and the watchmen mentioned above.

General Forestry.

We have left this branch until the last for under it are gathered a variety of activities which the other branches with their more definite work do not touch. It is a sort of general utility branch. The work of this branch may be subdivided into five lines, although these lines do not necessarily cover

all its work, for special temporary activities are placed upon it from time to time.

(a) *Reforestation*. — Under the reforestation law (Acts of 1907, chapter 487) owners of cut-over and waste land who wish to have it reforested can turn over their land to the State Forester for a period of ten years. At the expiration of this period the owner can reclaim his land by paying what the Department has laid out upon it for planting and other work. To date one hundred and fifty plantations, amounting to six thousand acres, have been reforested under the terms of this law.

(b) *State Nurseries*. — This branch maintains two principal and three sub or transplant nurseries for the propagation of forest planting stock. This stock is grown, first, for use of the Department for planting on reforestation lots and State forests; second, for use by other State departments; third, for municipalities; and last, for sale at cost to private owners.

(c) *Examination*. — The forest law provides that any owner of woodland may call on the State Forester for an examination of his woodland or trees. The cost of such an examination to the owners covers the traveling expenses of the visiting forester. The subjects covered in such examinations range from an estimate of timber to the identification of a disease on a tree or shrub.

(d) *State Forests*. — Under the law the State forests purchased by the State Forest Commission are turned over to the State Forester for administration. As the Legislature has made no special appropriation for this purpose, the amount of work done along this line is limited, but considerable has been done in the construction of fire lines, wood roads, and planting.

(e) *Educational Work.* — This is carried on by the publication of bulletins, the dissemination of newspaper articles, the arrangement of exhibits at fairs, and other public celebrations, through correspondence, and by personal interviews.

There is an assistant forester in charge of the work in this Department and two other foresters, one of whom is located at Springfield. There are three nursery foremen and three field foremen, who are permanent employees.

State Forest Commission.

Although this department is not a part of the State Forester's office, it is so closely associated with it that a review of this kind would not be complete unless it were mentioned. Upon this commission is placed the duty of selecting and purchasing large areas of waste land at prices not to exceed five dollars per acre for reforestation and management on the part of the State Forester. He is, in fact, one of the three commissioners. They have only one permanent employee, an engineer, who carries out the directions of the commission in getting together the land and making the necessary surveys. There are at present four State forest reservations, containing in all about eleven thousand acres.

MASSACHUSETTS FOREST LAWS.

GENERAL FORESTRY.

The State Forester.

1904, 409, sect. 1, as amended, 1907, 473, 1909, 263, and G. A. 1917, 63. The governor, with the consent of the council, shall appoint an officer to be known as the state forester, and shall determine his salary. He shall be a trained forester who has had a technical education. He shall act for the commonwealth in suppressing the gypsy and brown-tail moths as public nuisances. The governor may, with the consent of the council, remove the state forester at any time for such cause as he shall deem sufficient. In case of the death, removal or resignation of the state forester the governor shall forthwith appoint a successor. The state forester shall be furnished with an office in the state house and may expend for the services of clerks, stenographers and other office assistants, for traveling expenses necessarily incurred in the discharge of his duties, for office supplies, and for incidental expenses, including the printing and binding of his annual report, such sums as the general court shall annually appropriate. The office of superintendent for suppressing the gypsy and brown-tail moths is hereby abolished. All the powers, rights, duties and liabilities of the said superintendent are hereby transferred to the state forester. No existing contracts, proceed-

**Appointment
and qualifi-
cations.**

ings or liabilities shall be affected hereby, but the state forester shall in all respects and for all purposes be the lawful successor of the superintendent for suppressing the gypsy and brown-tail moths.

1904, 409, sect. 2. It shall be the duty of the state forester to promote the perpetuation, extension and proper management of the forest lands of the commonwealth, **Duties of state forester.** both public and private. He may upon suitable request give to any person owning or controlling forest lands aid or advice in the management thereof. He shall give such a course of instruction to the students of the Massachusetts Agricultural College on the art and science of forestry as may be arranged for by the trustees of the college and the forester; and shall perform such other duties from time to time as may be imposed upon him by the governor and council. The state forester shall have the right to publish the particulars and results of any examination or investigation made by him or his assistants as to any lands within the commonwealth, and the advice given to any person who has applied for his aid or advice. Any recipient of such aid or advice shall be liable to the state forester for the necessary expenses of travel and subsistence incurred by him or his assistants. The state forester shall account for moneys received under this clause according to the provision of section five.

1904, 409, sect. 3. The state forester may establish and maintain nurseries for the propagation of forest tree seed-**Establishment of nurseries.** lings upon such lands of the commonwealth, at the Massachusetts Agricultural College at Amherst, or at any other state institution, as the superintendent or trustees of the institution may set apart for this purpose. Superintendents of institutions where land is set apart for this purpose may furnish free of cost the labor of their inmates

necessary to establish and maintain the said nurseries. Seedlings from these nurseries shall be furnished to the commonwealth without expense for use upon reservations set aside for the propagation of forest growths for other than park purposes. All stock grown in nurseries established under the provisions of this act shall be used within the limits of the commonwealth and shall be furnished to state institutions free of charge. The state forester may distribute seeds and seedlings to land owners, citizens of the commonwealth, under such conditions and restrictions as he may determine, subject to the approval of the governor and council.

1904, 409, sect. 4. The state forester is hereby empowered, subject to the approval of the governor and council, to hire such assistants as he may need in the performance of his duties, and to fix their salaries.

**Forestry
assistants.**

1904, 409, sect. 5. The state forester shall annually, on or before the thirty-first day of December, make a written report to the general court of his proceedings for the year ending on the thirty-first day of December, together with such recommendations as he may deem proper, and with a detailed statement of the receipts and expenditures incident to the administration of his office.

**Forester's
report.**

1904, 409, sect. 6, as amended, 1907, 473, sect 2. Such sums as the general court shall authorize may be expended annually by the state forester, with the approval of the governor and council, in carrying out the provisions of this act.

Expenditures.

1911, 722, sect. 1. The state forester is hereby empowered to appoint an assistant to be known as the state fire warden, whose special duty it shall be to aid and advise the forest wardens and their deputies in towns and the municipal officers exercising the functions

**Appointment
of state fire
warden.**

of forest wardens in cities, in preventing and extinguishing forest fires and in enforcing the laws relative to forest fires, and may from time to time designate not more than fifteen deputies to aid such state fire warden in the discharge of his duties.

1911, 722, sect. 2. The state fire warden appointed under the terms of section one shall report annually upon his work and upon the forest fires occurring in the commonwealth, and his report shall be included in and be printed as a part of the state forester's annual report.

1911, 722, sect. 3. The deputies of the fish and game commissioners shall report to the state fire warden the situation and extent of any forest fire occurring within the district to which they are assigned, and they shall report to him monthly their doings under chapter two hundred and ninety-nine of the acts of the year nineteen hundred and seven.

**Annual
report.**

**Reports
from
deputies of
fish and
game com-
missioners.**

Reforestation.

1908, 478, sect. 1, as amended, 1909, 214. For the purpose of experiment and illustration in forest management and for the purposes specified in section seven of this act, the sum of five thousand dollars may be expended in the year nineteen hundred and eight, and the sum of ten thousand dollars annually thereafter, by the state forester, with the advice and consent of the governor and council, in purchasing lands situated within the commonwealth and adapted to forest production. The price of such land shall not exceed in any instance five dollars per acre, nor shall more than eighty acres be acquired in any one tract in any one year,

**Purchase of
land.**

except that a greater area may so be acquired if the land purchased directly affects a source or tributary of water supply in any city or town of the commonwealth. All lands acquired under the provisions of this act shall be conveyed to the commonwealth, and no lands shall be paid for nor shall any moneys be expended in improvements thereon until all instruments of conveyance and the title to be transferred thereby have been approved by the attorney-general and until such instruments have been executed and recorded.

1908, 478, sect. 2. The owners of land purchased under this act, or their heirs and assigns, may repurchase the land from the commonwealth at any time within ten **Repurchase by owners.** years after the purchase by the commonwealth, upon paying the price originally paid by the commonwealth, together with the amount expended in improvements and maintenance, with interest at the rate of four per cent per annum on the purchase price. The state forester, with the approval of the governor and council, may execute in behalf of the commonwealth such deeds of reconveyance as may be necessary under this section: *provided, however,* that there shall be included in such deeds a restriction requiring that trees cut from such property shall not be less than eight inches in diameter at the butt.

1908, 478, sect. 3. The state forester may in his discretion, but subject to the approval of the deed and title by the attorney-general as provided in section one, accept on **Gifts of land.** behalf of the commonwealth gifts of land to be held and managed for the purpose hereinbefore expressed. A donor of such land may reserve the right to buy back the land in accordance with the provisions of section two, but in the

absence of a provision to that effect in his deed of gift he shall not have such right.

1908, 478, sect. 4. Land acquired under the provisions of this act shall be under the control and management of the **Control and management.** state forester, who may, subject to the approval of the governor and council, cut and sell trees, wood and other produce therefrom.

1908, 478, sect. 5. All moneys received by or payable to the commonwealth or any one acting on its behalf under the provisions of this act shall be paid into the treasury of the commonwealth.

1908, 478, sect. 6. Land acquired under the provisions of this act and subsequently reconveyed under the provisions of **Taxation.** sections two or three shall not be exempt from taxation on account of any plantation of trees set out or planted while it was held by the commonwealth.

1908, 478, sect. 7. For the purpose of assisting in reforestation a portion, not exceeding twenty per cent of the **Distribution of seeds and seedlings.** money authorized by this act to be expended may be used by the state forester for the distribution at not less than cost of seeds and seedlings to land owners who are citizens of the commonwealth, under such conditions and restrictions as the state forester, subject to the approval of the governor and council, may deem advisable.

1908, 478, sect. 8. The state forester shall replant or otherwise manage all land acquired by the commonwealth and held by it under the provisions of this act, in such manner as will, in his judgment, produce the best forest growth both as to practical forestry results and protection of water supplies.

1908, 478, sect. 9. All acts and parts of acts inconsistent herewith are hereby repealed.

1910, 153, sect. 1. The state forester, with the approval of the governor and council, is hereby authorized to accept, on behalf of the commonwealth, bequests or gifts to be used for the purpose of advancing the forestry interests of the commonwealth, under the direction of the governor and council, in such manner as to carry out the terms of the bequest or gift.

**Acceptance
of bequests
by state
forester.**

1908, 121. *Resolved*, That such publications of the state forester as shall be designated by the governor and council may be sold by the state forester at a price not less than the cost thereof; and additional copies may be printed for sale at the discretion of the governor and council, the expense thereof to be paid from the receipts from such sales. Any amounts received from such sales shall be paid into the treasury of the commonwealth.

**Forestry
publications.**

State Forest Commission.

1914, 720, sect. 1. There is hereby established a state forest commission, to be composed of three persons, one of whom shall be the state forester and two other members who shall be appointed by the governor, with the advice and consent of the council, and who shall serve without compensation. The term of office of the appointive members of the commission shall be six years, except that when first appointed one of the members shall be appointed for six years and one for three years. Thereafter one member shall be appointed every third year.

Appointment.

1914, 720, sect. 2. The commission shall have power to acquire for the commonwealth by purchase or otherwise, and to hold, woodland or land suitable for timber cultivation within the commonwealth. The com-

Powers.

mission may, after a public hearing, sell or exchange any land thus acquired which in the judgment of the commission can no longer be used advantageously for the purposes of this act. The average cost of land purchased by the commission shall not exceed five dollars an acre.

1914, 720, sect. 3. Lands acquired under the provisions of this act shall be known as state forests and shall be under the control and management of the state forester. He shall proceed to reforest and develop such lands and shall have power to make all reasonable regulations which in his opinion will tend to increase the public enjoyment and benefit therefrom and to protect and conserve the water supplies of the commonwealth. The state forester shall keep and publish in his annual report an account of all money invested in each state forest and of the annual income and expense thereof.

1914, 720, sect. 4. In the reforestation, maintenance and development of lands purchased under this act, the state forester, so far as is practicable, shall obtain the labor necessary therefor under the provisions of chapter six hundred and thirty-three of the acts of the year nineteen hundred and thirteen, and acts in amendment thereof and in addition thereto.

1914, 720, sect. 5. Land acquired under the provisions of this act shall be exempt from taxation; but the commonwealth shall reimburse cities and towns in which such lands are situated for taxes lost by reason of their acquisition, in the same manner and to the same extent as in the case of lands acquired for public institutions under the provisions of chapter six hundred and seven of the acts of the year nineteen hundred and ten.

1914, 720, sect. 6. The sum of ten thousand dollars may be expended during the present year and the sum of twenty thousand dollars may be expended annually for **Appropriations.** the four succeeding years by the state forest commission in the acquisition of lands under the provisions of this act: *provided*, that the said commission may, at its discretion, authorize the state forester to expend a part of said sum in the maintenance of said lands. If any part of said twenty thousand dollars remains unexpended at the close of any year, the balance may be expended in the following year. The said commission may also expend not more than five hundred dollars annually for its necessary expenses incurred in carrying out the provisions of this act.

Town Forest Law.

Be it enacted, etc., as follows:

1913, 564, sect. 1. Section twenty-three of chapter twenty-eight of the Revised Laws is hereby amended by striking out the word "a", before the word "town", in the second line, and inserting in place thereof the words:—an annual,— by inserting after the word "therefor", in the eighth line, the words:—but the indebtedness so incurred shall be limited to an amount not exceeding one half of one per cent of the last preceding assessed valuation of the city or town,— and by striking out the words "commonwealth for the benefit of the", in the eleventh line, so as to read as follows:— *Section 23.* A town, by a vote of two thirds of the legal voters present and voting at an annual **Public domain.** town meeting, or a city in which the city council consists of two branches, by a vote of two thirds of the mem-

bers of each branch, and a city in which there is a single legislative board, by a vote of two thirds of the members thereof, present and voting thereon, may take or purchase land within their limits, which shall be a public domain, and may appropriate money and accept gifts of money and land therefor; but the indebtedness so incurred shall be limited to an amount not exceeding one half of one per cent of the last preceding assessed valuation of the city or town. Such public domain shall be devoted to the culture of forest trees, or to the preservation of the water supply of such city or town and the title thereto shall vest in the city or town in which it lies.

1913, 564, sect. 2. Said chapter twenty-eight is hereby further amended by striking out section twenty-five and inserting in place thereof the following:—*Section 25.* The city or town forester in each city or town, with one or more keepers appointed by him, shall have the management and charge of all such public domain in that city or town, and within such public domain shall have the powers of constables and police officers in towns. But a town by a vote of two thirds of the legal voters present and voting at an annual town meeting, or a city in which the city council consists of two branches, by a vote of two thirds of the members of each branch, and a city in which there is a single legislative board, by a vote of two thirds of the members thereof present and voting thereon, may place all such public domain within its limits under the general supervision and control of the state forester, who shall thereupon, upon notification thereof, make regulations for the care and use of such public domain and for the planting and cultivating of trees therein, and the city or town

**Regulations
regarding
care of.**

forester in such case and his keepers, under the supervision and direction of the state forester, shall be charged with the duty of enforcing all such regulations and of performing such labor therein as may be necessary for the care and maintenance thereof; and within such public domain shall have the powers of constables and police officers in towns.

1913, 564, sect. 3. Said chapter twenty-eight is hereby further amended by striking out section twenty-six and inserting in place thereof the following:— *Section 26*. Any such city or town may lease any **May lease buildings.** building on a public domain, and shall apply all sums derived from rents or from the sale of the products of any such domain, so far as may be necessary, to the management thereof.

1913, 564, sect. 4. Said chapter twenty-eight is hereby further amended by striking out section twenty-seven and inserting in place thereof the following:— *Section 27*. Any city or town in which such a public domain is situated may erect thereon any building for public instruction **May erect buildings.** or recreation: *provided*, that if such public domain has been placed under the supervision and control of the state forester, under the provisions of this act, no such building shall be erected unless his approval shall first be obtained.

1913, 564, sect. 5. Said chapter twenty-eight is hereby further amended by striking out section twenty-nine and inserting in place thereof the following:— *Section 29*. For the purpose of defraying the expenses incurred under the provisions of the six preceding sections any city or town may issue from time to time, and to an amount not exceeding the sum actually expended for the taking or purchase of lands for

such public domain, bonds or notes. Such bonds or notes shall be denominated on the face thereof, City or Town of _____, Public Domain Loan, Act of 1913; shall be payable by such annual payments, beginning not more than one year after the date thereof, as will extinguish each loan within thirty years from its date; and the amount of such annual payment of any loan in any year shall not be less than the amount of the principal of said loan payable in any subsequent year. Each authorized issue of bonds or notes shall constitute a separate loan. The bonds or notes shall bear interest at a rate not exceeding four and one half per cent per annum, payable semi-annually; and shall be signed by the treasurer and countersigned by the mayor of the city or, in the case of the town, shall be signed by the treasurer and countersigned by the selectmen. The city, by its mayor and treasurer, and the town, by its selectmen and treasurer, may sell such bonds or notes at public or private sale, upon such terms and conditions as they may deem proper, but the bonds or notes shall not be sold for less than their par value; and the proceeds shall be used only for the purposes herein specified.

1913, 564, sect. 6. The city or town shall at the time of authorizing said loan or loans provide for the payment thereof in accordance with the foregoing provisions of this act; and when a vote to that effect has been passed by the city council, or at any annual town meeting, a sum which will be sufficient to pay the interest as it accrues on the bonds or notes issued as aforesaid by the city or town, and to make such payments on the principal as may be required under the provisions of this act, shall, without further vote, be assessed by the assessors of the city

**How
financed.**

**Assessment
of tax.**

or town annually thereafter, in the same manner in which other taxes are assessed, until the debt incurred by said loan or loans is extinguished.

FOREST FIRE LAWS.

Forest Wardens in Cities and Towns.

R. L. 32, sect. 16, as amended, 1907, 475, sect. 1, and 1913, 600. The mayor and aldermen in cities and the selectmen in towns shall annually, in January, appoint a forest warden, and they shall forthwith give notice of such appointment to the state forester. **Appoint-ment of forest wardens.**

The appointment of a forest warden shall not take effect unless approved by the state forester, and when so approved notice of the appointment shall be given by the mayor and aldermen or by the selectmen to the person so appointed and approved. Whoever having been duly appointed fails within seven days after the receipt of such notice to file with the city or town clerk his acceptance or refusal of the office shall, unless excused by the mayor and aldermen or by the selectmen, forfeit ten dollars. Nothing in this act or in any other act shall be construed to prevent the offices of tree warden, selectman, chief of fire department and forest warden from being held by the same person.

1907, 475, sect. 2. The forest warden shall take precautions to prevent the spread of forest fires and the improper kindling thereof, and shall have sole charge of their extinguishment. He shall investigate the causes and extent of forest fires and the injury done thereby, the values of forest lands, the character and extent of wood-cutting operations, the prevalence of insect pests **Duties of forest wardens.**

injurious to forest growth, and other matters affecting the extent and condition of woodlands in his city or town, and shall report thereon to the state forester at such times and in such form as the state forester may require. He shall also post in suitable places in the city or town such warnings against the setting of forest fires and statements of the law relating thereto as may be supplied to him by the state forester. The engineers of fire departments in cities and in towns in which a fire department exists and which have so voted shall perform the duties and exercise the powers of forest wardens with respect to forest fires.

R. L. 32, sect. 20, as amended, 1907, 475, sect. 3. The forest warden may appoint deputies to assist him in the performance of his duties and may discharge the same, and he or his deputies may, if in their judgment there is danger from a forest fire, employ assistance or require any male person in their city or town between the ages of eighteen and fifty years to aid in its extinguishment or prevention, and may require the use of horses, wagons and other property adapted to that purpose, and shall keep an account of the time of all persons assisting them and a schedule of all property so used.

1907, 475, sect. 4. The state forester shall from moneys annually appropriated for the expenses of his office recompense the forest wardens for the time spent by them in making investigations under his direction according to the provisions of section two of this act: *provided*, that the state forester shall not be liable to make any such payment except upon the presentation of a duly itemized account, or to pay for such investigations at a rate greater than that of thirty-five cents an hour, or in excess of the appropriation available for such payment.

**Appointment
of deputies
and requisition
of men
and property.**

**Compensa-
tion of forest
wardens.**

1907, 475, sect. 6. Forest wardens, their deputies and assistants shall not be liable for trespass while acting in the reasonable performance of their duties. **Liability for trespass.**

1907, 475, sect. 7. Whoever wilfully and maliciously tears down or destroys any notice posted under the provisions of section two of this act shall be punished by a fine of ten dollars. **Destruction of fire notices.**

1907, 475, sect. 8. The state forester may from moneys appropriated annually for the expenses of his office expend a sum not exceeding two thousand dollars in making necessary arrangements for conventions of forest wardens and in paying wholly or in part the travelling expenses to and from their towns of such forest wardens as attend this convention: *provided*, that no moneys shall be expended under authority of this section in paying the travelling expenses of any one warden to or from more than one convention in any one year; and *provided, further*, that said conventions shall be held at a place within the commonwealth. **Forestry conventions.**

Powers of Forest Wardens in Fighting Fires, and to call for Assistance.

R. L. 32, sect. 19, as amended, 1907, 475, sect. 5. If a fire occurs in woodland, two or more of the forest wardens of the town, or of a town containing woodland which is endangered by such fire, who are present at a place in immediate danger of being burned over, may set back fires and take all necessary precautions to prevent the spread of the fire. **Back fires in woodlands.**

R. L. 32, sect. 21. Whoever wilfully refuses or neglects, without sufficient cause, to assist, or to allow the use of his horses, wagons or other property as required by the preceding section, shall, for each offence, be **Penalty for refusing aid.**

punished by a fine of not less than five nor more than one hundred dollars, to be equally divided between the complainant and the town, and may also be imprisoned for not more than sixty days.

R. L. 32, sect. 23. Payment shall be made to forest wardens, to their deputies, and to the persons assisting them, and for **Rate of payment.** property used under their direction at a forest fire, at a rate prescribed by the town, or in default of its action thereon, by the selectmen. No such payment shall be made until an itemized account, approved by the forest wardens under whose direction the work was done or assistance furnished, shall have been filed with the officer making payment.

R. L. 32, sect. 25. Money appropriated by a town under the provisions of section seventeen of chapter twenty-five, **Expenditures authorized.** received under the provisions of sections twenty-one, twenty-two and twenty-four of this chapter and section nine of chapter two hundred and eight shall be expended by the forest warden, under the supervision of the selectmen, in trimming brush out of wood roads, in preparing and preserving suitable lines for back fires or in other ways adapted to prevent or check the spread of fire; or such town may expend any portion of such money in taking in the name of the town such woodland as the selectmen, upon the recommendation of the forest warden, consider expedient for the purpose of preventing forest fires. Such taking and the payment of damages therefor or for injury to property, other than by fire or back fire, shall be governed by the laws relating to the taking of land for highways.

Setting of Fires in the Open Air.

G. A. 1916, 51, sect. 1. It shall be unlawful within any city or town for any person to set, maintain or increase a fire in the open air between the first day of March and the first day of December except by written permission of the fire prevention commissioner for the metropolitan district within the said district, or of the forest warden or chief of the fire department in other cities and towns, or, in cities that have such an official, the fire commissioner: *provided*, that debris from fields, gardens and orchards, and leaves and rubbish from yards may be burned on ploughed fields by the owners thereof, their agents or lessees; and *provided, further*, that persons above the age of eighteen years may set or maintain a fire for a reasonable purpose upon sandy land, or upon salt marshes or sandy or rocky beaches bordering upon tide water, if the fire is enclosed within rocks, metal or other non-inflammable material. In every case such a fire shall be at least two hundred feet distant from any sprout or forest land, and at least fifty feet distant from any building, and shall be properly attended until it is extinguished. The forest wardens in towns and officials performing the duties of forest wardens in cities shall cause public notice to be given of the provisions of this section and shall enforce the same. Whoever violates any provision of this section shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than one month, or by both such fine and imprisonment.

Permit law.

G. A. 1916, 51, sect. 2. The provisions of the preceding section shall not apply to fires which may be set, maintained or increased within the metropolitan district in accordance with regulations and methods ap-

Exceptions.

proved by the fire prevention commissioner for the said district, nor to fires which may be set for the purpose of suppressing gypsy and brown tail moths in accordance with regulations and methods approved by the state forester, nor to fires set or increased within the limits of any public way by the employees of the commonwealth or of any county, city or town in the performance of public work.

G. A. 1916, 51, sect. 3. The state forester shall notify the forest warden in every town and the official performing the duties of forest warden in every city in the commonwealth of the passage of this act.

Notice.

G. A. 1916, 51, sect. 4. The state forester, the state fire warden or any duly authorized assistant of the state forester, forest wardens in towns and officials performing the duties of forest wardens in cities, or any duly appointed deputy forest warden may arrest without warrant any person found in the act of setting, maintaining or increasing a fire in violation of the provisions of this act.

Arrests.

G. A. 1916, 51, sect. 5. Section twenty-four of chapter thirty-two of the Revised Laws, and chapter two hundred and nine of the acts of the year nineteen hundred and eight, as amended by chapter two hundred and forty-four of the acts of the year nineteen hundred and eleven and by sections three and four of chapter four hundred and nineteen of the acts of the year nineteen hundred and twelve are hereby repealed.

1910, 141. It shall be unlawful within any city or town in this commonwealth for any person to liberate or fly fire balloons of any description. Whoever violates this act shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than one month or by both such fine and imprisonment.

Fire balloons prohibited.

Disposal of Slash or Brush following Wood or Lumber Operations.

1914, 101, sect. 1. Every owner, tenant or occupant of land, and every owner of stumpage, who cuts or permits the cutting of wood or timber on woodland owned or occupied by him or on which he has acquired stumpage by purchase or otherwise, and which borders upon the woodland of another or upon a highway or railroad location, shall clear the land of the slash and brush wood then and there resulting from such cutting for such distance, not exceeding forty feet, from the woodland of such other person, highway or railroad location as the local forest warden shall determine, and within such time and in such manner as he shall determine.

1914, 101, sect. 2. Any person who cuts or causes to be cut trees or brushes or undergrowth within the limits of any highway or public road shall dispose of the slash and brush wood then and there resulting from such cutting within such time and in such manner as the forest warden of the city or town wherein such cutting is done shall determine.

1914, 101, sect. 3. Whoever neglects to comply with the directions of the forest warden with regard to the disposal of slash and brush, as provided in sections one and two of this act may be punished by a fine of not less than five dollars nor more than fifty dollars.

1914, 101, sect. 4. This act shall take effect on the first day of January in the year nineteen hundred and fifteen.

40-foot fire line required.

Disposal of brush along highway.

Penalty.

Exemplary Damages for injuring Timber and Special Liability of Railroads.

R. L. 185, sect. 7. A person who without license wilfully cuts down, carries away, girdles or otherwise destroys any trees, timber, wood or underwood on the land of another shall be liable to the owner in an action of tort for three times the amount of damages assessed therefor; but if it is found that the defendant had good reason to believe that the land on which the trespass was committed was his own or that he was otherwise lawfully authorized to do the acts complained of, he shall be liable for single damages only.

Treble damages for wilfully cutting, etc.

R. L. 111, sect. 270. Every railroad corporation and street railway company shall be liable in damages to a person or corporation whose buildings or other property may be injured by fire communicated by its locomotive engines, and shall have an insurable interest in the property upon its route for which it may be so held liable, and may procure insurance thereon in its own behalf. If it is held liable in damages, it shall be entitled to the benefit of any insurance effected upon such property by the owner thereof, less the cost of premium and expense of recovery. The money received as insurance shall be deducted from the damages, if recovered before they are assessed; and if not so recovered, the policy of insurance shall be assigned to the corporation which is held liable in damages, and it may maintain an action thereon.

Railroad liability for fire.

Land adjoining Railroads, and Powers and Duties of Railroads.

1907, 431, sect. 1. Every corporation operating a steam railroad within this commonwealth shall, subject to the approval of the board of railroad commissioners, **Spark arresters required; removal of inflammable material.** install and maintain a spark arrester on every engine in its service in which wood, coke or coal is used as fuel, and shall, between the first day of April and the first day of December in each year, keep the full width of all of its locations over which such engines are operated, to a point two hundred feet distant from the centre line on each side thereof, clear of dead leaves, dead grass, dry brush or other inflammable material, and shall not at any time leave any deposit of fire, hot ashes or live coals upon its locations in the immediate vicinity of woodlands or grass lands, and shall post in stations and other conspicuous places within its location and right of way such notices and warning placards as are furnished to it for the purpose by the state forester: *provided*, that nothing in this section shall be construed to prohibit any railroad corporation from piling or keeping upon its location or right of way crossties or other material necessary for the maintenance and operation of its railroad.

1907, 431, sect. 2. Any railroad corporation may, upon giving notice according to the provisions of this section, enter upon unimproved land adjoining any location or right of way upon which it operates engines **May clear adjoining land.** burning wood, coke or coal, and may there at its own expense and subject to the direction of the forest warden, or the officer or board having his powers, in the city or town

in which the land is situated, clear such land of dead leaves, dead grass and dead wood to a distance of one hundred feet from the tracks, without thereby becoming liable for trespass: *provided*, that no railroad corporation shall, under the provisions of this section, do any acts on unimproved land outside its location or right of way, unless it has within two months given fourteen days' notice in writing by mail or otherwise to the occupant of the land, and to the owner thereof, if he resides or has a usual place of business in the city or town in which it is situated, and if the land is unoccupied and the owner does not reside or have a usual place of business in the city or town, then, unless the railroad corporation has within two months published notice of its purpose once in three successive weeks in a newspaper published in the county in which the land is situated, and unless it has within three days given at least twenty-four hours' notice to the forest warden [or the officer or board having his powers], in the city or town in which the land is situated of the location of the land which it intends to enter under the provisions of this section, and of the time at which it intends to enter the same; and *provided, further*, that no notice hereby required shall be valid unless it sets forth the provisions of this section.

1907, 431, sect. 3. Any engineer, conductor or other employee on a train who discovers a fire burning uncontrolled on lands adjacent to the tracks shall forthwith **Railroad fire signal.** cause a fire signal to be sounded from the engine, which shall consist of one long and three short whistle blasts repeated several times, and shall notify the next sectionmen whom the train passes, and the next telegraph station, of the existence and location of the fire. The provisions of this section shall not affect the authority conferred upon the

board of railroad commissioners by the provisions of section one hundred and forty-eight of Part II of chapter four hundred and sixty-three of the acts of the year nineteen hundred and six.

1907, 431, sect. 4. Sectionmen or other employees of a railroad corporation who receive notice of the existence and location of a fire burning on land adjacent to the tracks shall forthwith proceed to the fire and shall use all reasonable efforts to extinguish it: **Duties of railroad employees.** *provided*, that they are not at the time employed in labors immediately necessary to the safety of tracks or to the safety and convenience of passengers and the public.

1907, 431, sect. 5. Railroad corporations shall inform their employees as to their duties under this act and shall furnish them with the appropriate facilities for reporting and extinguishing such fires. **Duties of railroad corporations.**

1907, 431, sect. 6. Nothing in this act shall be construed to give any railroad corporation power to enter upon, or to interfere in the management or care of, any public park or reservation. **Proviso as to park lands.**

1909, 394, sect. 1. Any railroad corporation which, by its servants or agents, negligently, or in violation of law, sets fire to grass lands or forest lands shall be liable to any city or town in which such fire occurs, for the reasonable and lawful expense incurred by such city or town in the extinguishment of the fire. **Railroad liability.**

1909, 394, sect. 2. Cities and towns may recover sums to which they are entitled under the provisions of this act by an action of contract in the superior court.

Town Appropriations.

R. L. 25, sect. 17. A town which accepts the provisions of this section, or has accepted the corresponding provisions of earlier laws, may appropriate money for the prevention of forest fires to an amount not exceeding one-tenth of one per cent of its valuation.

Prevention of forest fires. 1914, 262, sect. 1. Section one of chapter three hundred and ninety-eight of the acts of the year nineteen hundred and ten, is hereby amended by striking out the words "five hundred", in the second line, and inserting in place thereof the words:— seven hundred and fifty,— so as to read as follows:— *Section 1.* Every town in the commonwealth with a valuation of one million seven hundred and fifty thousand dollars or less which appropriates and expends money, with the approval of the state forester, for apparatus to be used in preventing or extinguishing forest fires or for making protective belts or zones as a defence against forest fires, shall be entitled, upon the recommendation of the state forester, approved by the governor, to receive from the treasury of the commonwealth a sum equal to one half of the said expenditure, but no town shall receive more than two hundred and fifty dollars.

1910, 398, sect. 2. A sum not exceeding five thousand dollars in any one year may be expended in carrying out the provisions of this act.

Purchase of fire equipment. 1910, 478, sect. 1. It shall be unlawful for any unnaturalized, foreign-born person to pick wild berries or flowers, or to camp or picnic upon any land of which he is not the owner, within the counties of Barnstable and Plymouth, between the first day of April and

Permit regulation of Barnstable and Plymouth counties.

the first day of December, without first obtaining written permission so to do from the owner or owners of the land. The said written permit shall not be transferable, and shall be exhibited upon demand to the forest warden, or his deputies, of the town wherein the land is located, or upon demand of any sheriff, constable, police officer or other officer authorized to arrest for crime. Failure or refusal to produce said permit upon such demand shall be prima facie evidence of a violation of this act, and any forest warden or any duly authorized deputy forest warden, police officer, sheriff or other officer authorized to arrest for crime, may arrest without warrant any person who fails or refuses to display for inspection the said permit upon the demand of any of the officials named in this act.

1910, 478, sect. 2. Whoever violates any provision of this act shall be punished by a fine of not more than fifty dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment. **Penalty.**

Use of Spark Arresters on Portable Steam Sawmills, Steam Rollers, Steam Shovels and Steam Tractors.

G. A. 1917, 51, sect. 1. It shall be unlawful for any person, firm or corporation, except when the ground is covered with snow, to operate in or adjacent to forest or grass lands, any portable steam sawmill, steam roller, steam shovel, or steam tractor, which burns wood, coke, coal, or other spark-producing material as fuel, unless the same is provided with a suitable spark arrester, approved by the state forester. **Use of spark arresters.**

G. A. 1917, 51, sect. 2. Authority is hereby given to the state forester or his duly authorized assistants to inspect all appliances described in section one, to determine whether they are provided with suitable spark-arresters in accordance with the provisions hereof.

State forester's authority.

G. A. 1917, 51, sect. 3. Any violation of the provisions of this act shall be punished by a fine of not less than fifty nor more than one hundred dollars.

Penalty.

G. A. 1917, 51, sect. 4. This act shall not apply within the metropolitan district as defined in section one of chapter seven hundred and ninety-five of the acts of the year nineteen hundred and fourteen.

Exceptions.

Close Season for Game in Times of Drouth.

1909, 422, sect. 1. Whenever, during an open season for the hunting of any kind of game in this state, it shall appear to the governor that by reason of extreme drouth the use of firearms in the forest is liable to cause forest fires, he may, by proclamation, suspend the open season and make it a close season for the shooting of birds and wild animals of every kind for such time as he may designate, and may prohibit the discharge of firearms in or near forest land during the said time.

Governor may proclaim.

1909, 422, sect. 2. During the time designated as above by the governor, all provisions of law relating to the close season shall be in force, and whoever violates any such provisions shall be subject to the penalties prescribed therefor. In case any person shall, during a close season proclaimed as aforesaid, discharge a firearm in or near forest land, or shoot any wild animal or bird, as to which

Penalties.

there is no close season otherwise provided by law, he shall be subject to a fine of not more than one hundred dollars.

1909, 422, sect. 3. A proclamation issued under authority hereof shall be published in such newspapers of the state and posted in such places and in such manner as **Publication of notice.** the governor may direct, under the charge and direction of the state forester and the commissioners on fisheries and game.

Punishable Offences against Forest Lands.

R. L. 208, sect. 5. Whoever wilfully and maliciously burns or otherwise destroys or injures a pile or parcel of wood, boards, timber or other lumber, or any fence, bars **Setting fire to woodpiles, trees, etc.** or gate, or a stack of grain, hay or other vegetable product, or any vegetable product severed from the soil and not stacked, or any standing tree, grain, grass or other standing product of the soil, or the soil itself, of another, shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than five hundred dollars and imprisonment in jail for not more than one year.

R. L. 208, sect. 7. Whoever by wantonly or recklessly setting fire to any material causes injury to, or the destruction of, any growing or standing wood of another shall be punished by a fine of not more than **Injury caused by reckless setting of fires.** one hundred dollars or by imprisonment for not more than six months.

R. L. 208, sect. 8. Whoever wilfully or without reasonable care sets fire upon land of another whereby the property of another is injured, or whoever negligently or wilfully suffers any fire upon his own land to extend beyond the limits thereof, whereby the woods **Wilful setting of fires.**

or property of another are injured, shall be punished by a fine of not more than two hundred and fifty dollars.

R. L. 208, sect. 9. Whoever in a town which accepts the provisions of this section, or has accepted the corresponding provisions of earlier laws, sets a fire on land which is not owned or controlled by him and before leaving the same neglects to entirely extinguish such fire, or whoever wilfully or negligently suffers a fire upon his own land to escape beyond the limits thereof to the injury of another, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in jail for not more than one month, or by both such fine and imprisonment; and shall also be liable for all damages caused thereby. Such fine shall be equally divided between the complainant and the town.

R. L. 208, sect. 99, as amended, 1904, 444, sect. 1. Whoever wilfully cuts down or destroys timber or wood standing or growing on the land of another, or carries away any kind of timber or wood cut down or lying on such land, or digs up or carries away stone, ore, gravel, clay, sand, turf or mould from such land, or roots, nuts, berries, grapes or fruit of any kind or any plant there being, or cuts down or carries away sedge, grass, hay or any kind of corn, standing, growing or being on such land, or cuts or takes therefrom any ferns, flowers or shrubs, or carries away from a wharf or landing place any goods in which he has no interest or property, without the license of the owner thereof, shall be punished by imprisonment for not more than six months or by a fine of not more than five hundred dollars, and if the offence is committed on the Lord's day or in disguise or secretly in the night time the imprisonment shall not be less than five days nor the fine less than five dollars.

1907, 299. The commissioners on fisheries and game and their duly authorized deputies may arrest without a warrant any person found in the act of unlawfully setting a fire. Said commissioners and their deputies may require assistance according to the provisions of section twenty of chapter thirty-two of the Revised Laws, and they shall take precautions to prevent the progress of forest fires, or the improper kindling thereof, and upon the discovery of any such fire shall immediately summon the necessary assistance, and notify the forest fireward of the town.

**Duties of
fish and
game
protectors.**

LAWS RELATING TO THE SUPPRESSION OF THE GYPSY AND BROWN-TAIL MOTHS.

CHAPTER 381, ACTS OF 1905, AS AMENDED BY CHAPTER 268, ACTS OF 1906, BY CHAPTER 521, ACTS OF 1907, BY CHAPTER 591, ACTS OF 1908, BY CHAPTER 150, ACTS OF 1910, BY CHAPTER 474, ACTS OF 1911, AND CHAPTER 600, ACTS OF 1913.

An Act to provide for Suppressing the Gypsy and Brown Tail Moths.

Be it enacted, etc., as follows:

SECTION 1. For the purposes of this act the pupæ, nests, eggs and caterpillars of the gypsy and brown tail moths and said moths are hereby declared public nuisances, and their suppression is authorized and required; but no owner or occupant of an estate infested by such nuisance shall by reason thereof be liable to an action, civil or criminal, except to the extent and in the manner and form herein set forth.

**Gypsy moth
declared
nuisance.**

SECTION 2.¹ The governor, by and with the consent of the council, shall appoint a superintendent for suppressing the gypsy and brown tail moths and shall determine his salary. The governor may, with the consent of the council, remove said superintendent at any time for such cause as he shall deem sufficient. In case of the death, removal or resignation of the superintendent

**Appoint-
ment of
superin-
tendent.**

¹ The office of superintendent was abolished by chapter 263, Acts of 1909, and the State Forester was placed in charge of the work of suppressing the gypsy and brown-tail moths. See chapter 263, Acts of 1909, printed on page 13.

the governor shall forthwith appoint a successor. On or before the third Wednesday in January in each year the superintendent shall make a report of his proceedings to the general court, which shall be a public document and shall be printed. Said report shall separate so far as is practicable the expenditures on work against the gypsy moth from those on work against the brown tail moth in each city and town.

SECTION 3. [As amended by section 1, chapter 268, Acts of 1906, and by section 1, chapter 591, Acts of 1908.] The said superintendent shall act for the common-wealth in suppressing said moths as public nuisances, in accordance with the provisions of this

**Powers of
superin-
tendent.**

act. For this purpose he shall establish an office and keep a record of his doings and of his receipts and expenditures, and may, subject to the approval of the governor, make rules and regulations governing all operations by cities, towns or individuals under this act. He may employ such clerks, assistants and agents, including expert advisers and inspectors, as he may deem necessary and as shall be approved by the governor. He may make contracts on behalf of the commonwealth; may act in co-operation with any person, persons, corporation or corporations, including other states, the United States or foreign governments; may conduct investigations and accumulate and distribute information concerning said moths; may devise, use and require all other lawful means of suppressing or preventing said moths; may lease real estate when he deems it necessary, and, with the approval of the board in charge, may use any real or personal property of the commonwealth; may at all times enter upon the land of the commonwealth or of a municipality, corporation, or other owner or owners, and may use all

reasonable means in carrying out the purposes of this act; and, in the undertakings aforesaid, may, in accordance with the provisions of this act, expend the funds appropriated or donated therefor; but no expenditure shall be made or liability incurred in excess of such appropriations and donations.

The clerks, assistants and agents employed by said superintendent may at all times, in carrying out the purposes of this act, enter upon the land of the commonwealth or of a municipality, corporation or other owner or owners.

Agents may enter upon land.

SECTION 4. [As amended by section 2, chapter 268, Acts of 1906; by section 1, chapter 521, Acts of 1907; by section 1, chapter 150, Acts of 1910, and chapter 600, Acts of 1913.] The mayor and aldermen in cities and the selectmen in towns shall annually in the month of January appoint a local superintendent for the suppression of the gypsy and brown tail moths. Said superintendent shall under the advice and general direction of the state forester destroy the eggs, caterpillars, pupæ and nests of the gypsy and brown tail moths within their limits, except in parks and other property under the control of the commonwealth, and except in private property, save as otherwise provided herein. The said appointments of local superintendents shall not take effect unless approved by the state forester, and when so approved, notice of the appointment shall be given by the mayor and aldermen or selectmen to the person so appointed. When any city or town shall have expended within its limits city or town funds to an amount in excess of five thousand dollars in any one fiscal year, in suppressing gypsy or brown tail moths, the commonwealth shall reimburse such city or town to the extent of fifty per cent of such excess above said five thousand dollars.

Appointment of local moth superintendent.

Cities or towns, where one twenty-fifth of one per cent of the assessed valuation of real and personal property is less than five thousand dollars, and where the assessed valuation of real and personal property is greater than six million dollars, shall be reimbursed by the commonwealth to the extent of eighty per cent of the amount expended by such cities or towns of city or town funds in suppressing the gypsy and brown tail moths in any one fiscal year, in excess of said one twenty-fifth of one per cent.

**Reimburse-
ment to
cities and
towns.**

In the case of towns where the assessed valuation of real and personal property is less than six million dollars, after they have expended in any one fiscal year town funds to an amount equal to one twenty-fifth of one per cent of their assessed valuation of real and personal property, the commonwealth shall expend within the limits of such towns, for the purpose of suppressing the gypsy and brown tail moths, such an amount in addition as the superintendent with the advice and consent of the governor shall recommend.

The commonwealth shall reimburse cities and towns every sixty days according to the provisions of this act.

No city or town shall be entitled to any reimbursement from the commonwealth until it has submitted to the auditor of the commonwealth itemized accounts and vouchers showing the definite amount expended by it for the purpose of this act; nor shall any money be paid out of the treasury of the commonwealth to cities or towns, pursuant to the provisions of this act, until said vouchers and accounts have been approved by the superintendent and the auditor of the commonwealth.

For the purposes of this section, the valuation of the

previous year shall be taken as a basis. The fiscal year for nineteen hundred and seven and for all succeeding years shall close on the thirtieth day of November.

Cities and towns compelled to act. SECTION 5. [As amended by section 3, chapter 268, Acts of 1906, by section 2, chapter 521, Acts of 1907, and chapter 474, Acts of 1911.] When, in the opinion of the superintendent, any city or town is not expending a sufficient amount for the abatement of said nuisance, or is not conducting the necessary work in a proper manner, then the superintendent shall, with the advice and consent of the governor, order such city or town to expend such an amount as the superintendent shall deem necessary, and in accordance with such methods as the superintendent, with the consent of the governor, shall prescribe: *provided*, that no city or town where the assessed valuation of real and personal property exceeds six million dollars shall be required to expend, exclusive of any reimbursement received from the commonwealth, during any one full year more than one fifteenth of one per cent of such valuation, and that no town where the assessed valuation of real and personal property is less than six million dollars shall be required to expend, exclusive of any reimbursement received from the commonwealth, during any one full year more than one twenty-fifth of one per cent of such valuation. For the purposes of this section the valuation of each previous year shall be used.

Any city or town failing to comply with the directions of the said superintendent in the performance of said work within the date specified by him shall pay a **Penalty.** fine of one hundred dollars a day for failure so to do; said fine to be collected by information brought by the attorney-general in the supreme judicial court for Suffolk county.

In case of emergency, or where there is great or immediate danger of the increase or spread of the moths due to the neglect of any city or town to comply with the terms of this act, the superintendent, with the consent of the governor, may initiate or continue the work of suppressing the moths within the limits of such city or town for such a period as the superintendent may deem necessary. The cost of such work, including that done on private estates, less any sum due from the state by way of reimbursements on account of said work, shall be certified by the superintendent to the treasurer of the commonwealth, and be collected by him as an additional state tax upon the city or town so failing to comply with the requirements of the law. The superintendent may also in case of emergency, subject to the approval of the governor, carry on wholly or in part such operations as may be necessary to check the spreading of the gypsy or brown tail moths in parks not under the control of the commonwealth, and in cemeteries, woodlands and other places of public resort. The amount to be so expended in any one year shall not exceed ten per cent of the appropriations made for the year by the state for the purpose of suppressing said moths.

Superintendent may take control.

The superintendent may also take complete control of the work of suppressing the gypsy and brown tail moths in such cities and towns as may through the proper officials request it. The cost of such work shall be certified by the superintendent to the treasurer of the commonwealth and shall be collected by him as an additional state tax upon the city or town wherein such work is performed; *provided*, that no city or town shall be required to pay more for such work than would have been its liability, as defined by section four of this act.

Cost of the work to be certified.

SECTION 6. [As amended by section 4, chapter 268, Acts of 1906, by section 2, chapter 591, Acts of 1908, and by chapter 124, Acts of 1915.] The mayor of every city and the selectmen of every town shall, on or before the first day of November in each year, and at such other times as he or they shall see fit, or as the state superintendent may order, cause a notice to be sent to the owner or owners, so far as can be ascertained, of every parcel of land therein which is infested with said moths; or, if such notification appears to be impracticable, then by posting such notice on said parcels of land, requiring that the eggs, caterpillars, pupæ and nests of said moths shall be destroyed within a time specified in the notice.

The publication of the notice in newspapers published or circulated in the city or town at least three times during the month of October shall be deemed a compliance with the law, if in the opinion of the mayor or selectmen such publication will be a sufficient notice.

When, in the opinion of the mayor or selectmen, the cost of destroying such eggs, caterpillars, pupæ and nests on lands contiguous and held under one ownership in a city or town shall exceed one half of one per cent of the assessed value of said lands, then a part of said premises on which said eggs, caterpillars, pupæ or nests shall be destroyed may be designated in such notice, and such requirement shall not apply to the remainder of said premises. The mayor or selectmen may designate the manner in which such work shall be done, but all work done under this section shall be subject to the approval of the state superintendent.

If the owner or owners shall fail to destroy such eggs, caterpillars, pupæ or nests in accordance with the requirements

of the said notice, then the city or town, acting by the public officer or board of such city or town designated or appointed as aforesaid, shall, subject to the approval of the said superintendent, destroy the same, and the amount actually expended thereon, not exceeding one half of one per cent of the assessed valuation of said lands, as heretofore specified in this section, shall be assessed upon the said lands; and such an amount in addition as shall be required shall be apportioned between the city or town and the commonwealth in accordance with the provisions of section four of this act. The amounts to be assessed upon private estates as herein provided shall be assessed and collected, and shall be a lien on said estates, in the same manner and with the same effect as is provided in the case of assessments for street watering.

The public officer or board of any city or town designated or appointed as aforesaid, or any agent or employee of such public officer or board, may at any time enter upon any parcel of land within the limits of such city or town for the purpose of determining whether or not such parcel of land is infested with said moths, or the extent to which such parcel of land is so infested.

**Public officer
may enter
upon land.**

SECTION 7. [As amended by section 5, chapter 268, Acts of 1906, and by section 3, chapter 521, Acts of 1907.] If, in the opinion of the assessors of a city or town, any land therein has received, by reason of the abatement of said nuisances thereon by said superintendent or by said city or town, a special benefit beyond the general advantage to all land in the city or town, then the said assessors shall determine the value of such special benefit and shall assess the amount thereof upon said land: *provided*, that no such assessment on lands contiguous and held under

Betterment.

one ownership shall exceed one half of one per cent of the assessed valuation of said lands; and *provided*, that the owner or owners shall have deducted from such assessment the amount paid and expended by them during the twelve months last preceding the date of such assessment toward abating the said nuisances on said lands, if, in the opinion of the assessors, such amount has been expended in good faith.

**Assessment
a lien upon
land.**

Such assessment shall be a lien upon the land for three years from the first day of January next after the assessment has been made, and shall be collected under a warrant of the assessors to the collector of taxes of such city or town, in the manner and upon the terms and conditions and in the exercise of the powers and duties, so far as they may be applicable, prescribed by chapter thirteen of the Revised Laws relative to the collection of taxes.

Real estate sold hereunder may be redeemed within the time, in the manner, and under the provisions of law, so far as they may be applicable, set forth in chapter thirteen of the Revised Laws for the redemption of land sold for taxes.

**Real estate
may be
redeemed.**

Real estate sold hereunder may be redeemed within the time, in the manner, and under the provisions of law, so far as they may be applicable, set forth in chapter thirteen of the Revised Laws for the redemption of land sold for taxes.

A person aggrieved by such assessment may appeal to the superior court for the county in which the land lies, by entering a complaint in said court within thirty days after he has had actual notice of the assessment, which complaint shall be determined as other causes by the court without a jury. The complaint shall be heard at the first sitting of said court for trials without a jury after its entry; but the court may allow further time, or may advance the case for speedy trial, or may appoint an auditor as in other cases. The court may revise

**Complaint
of assess-
ment.**

entering a complaint in said court within thirty days after he has had actual notice of the assessment, which complaint shall be determined

the assessment, may allow the recovery back of an amount wrongfully assessed which has been paid, may set aside, in a suit begun within three years from the date thereof, a collector's sale made under an erroneous assessment, may award costs to either party and may render such judgment as justice and equity require.

If, in the opinion of the assessors, the owner of an estate upon which an assessment as aforesaid has been made is, by reason of age, infirmity or poverty unable to pay **Abatement of tax.** the assessment, they may upon application abate the same. Every city or town in rendering an account to the state auditor as provided for in section four of this act shall deduct from such amount as it has expended the total amount it has assessed for work performed under section six of this act during the term covered by the account: *provided*, such work was performed under such conditions as require reimbursement in whole or in part by the state.

SECTION 8. To meet the expenses incurred under authority of this act, there shall be allowed and paid out of the treasury of the commonwealth, during the period **Appropriations.** up to and including May first, nineteen hundred and seven, the sum of three hundred thousand dollars. Of this amount seventy-five thousand dollars may be expended during the calendar year nineteen hundred and five; one hundred and fifty thousand dollars, and any unexpended balance of the previous year, may be expended during the calendar year nineteen hundred and six; and seventy-five thousand dollars, and any unexpended balance of the previous years, may be expended during the calendar year nineteen hundred and seven, up to and including May first.

SECTION 9. An additional sum of ten thousand dollars in

each of the years nineteen hundred and five, nineteen hundred and six and nineteen hundred and seven may, in the discretion of the state superintendent, be expended by him for experimenting with parasites or natural enemies for destroying said moths, and any unexpended balance of any year may be expended in the subsequent years.

SECTION 10. Chapter two hundred and ten of the acts of the year eighteen hundred and ninety-one and sections one and two of chapter five hundred and forty-four of the acts of the year eighteen hundred and ninety-eight and section two of chapter fifty-seven of the acts of the year nineteen hundred and two, are hereby repealed.

SECTION 11. [As amended by section 6, chapter 268, Acts of 1906.] A person who wilfully resists or obstructs the superintendent or an official of a city or town, or a servant or agent duly employed by said superintendent or by any of said officials, while lawfully engaged in the execution of the purposes of this act, or who knowingly fails to comply with any of the rules or regulations issued by said superintendent, shall forfeit a sum not exceeding twenty-five dollars for each offence.

SECTION 12. [As amended by section 4, chapter 521, Acts of 1907.] Valuations of real and personal property of each previous year shall govern the provisions of this act.

SECTION 13. This act shall take effect upon its passage.

CHAPTER 242, ACTS OF 1911.

An Act relative to Abatement of Taxes for the Suppression of Moths.

Be it enacted, etc., as follows:

SECTION 1. A person aggrieved by the taxes assessed upon him for the suppression of gypsy and brown tail moths pursuant to the provisions of sections six and seven of chapter three hundred and eighty-one of the acts of the year nineteen hundred and five, as amended by chapter two hundred and sixty-eight of the acts of the year nineteen hundred and six, by chapter five hundred and twenty-one of the acts of the year nineteen hundred and seven, and by chapter five hundred and ninety-one of the acts of the year nineteen hundred and eight, may, within six months after the date of the first tax bill issued on account of the taxes complained of, apply to the assessors for the abatement thereof; and if they find that he is taxed for more than his legal proportion, or for an amount in excess of what should have been assessed pursuant to the statute under which the tax was laid, they shall make a reasonable abatement.

**Application
for abate-
ment of tax.**

SECTION 2. The assessors shall not abate a tax under the provisions of section one except upon the written recommendation of the board or officer who certified the assessment in question to the assessors or provided them with the information as to the work performed, upon which such tax was assessed, unless the error or excess complained of originated in the work of the assessors who laid the tax.

SECTION 3. The assessors shall keep a record of all taxes

abated under the provisions of this act and shall preserve for three years all written recommendations received pursuant to section two. They shall furnish the collector of taxes with a certificate of each abatement hereunder, which shall relieve him from the collection of the sum abated.

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

CHAPTER 605, ACTS OF 1913.

An Act to authorize Local Moth Superintendents to furnish Arsenate of Lead to Real Estate Owners.

Be it enacted, etc., as follows:

SECTION 1. For the purpose of assisting in the extermination of gypsy and brown tail moths, the local moth superintendent in any city or town now receiving aid from the commonwealth in suppressing the said insect pests is hereby authorized to furnish, at the cost thereof, arsenate of lead to any owner of real estate situated within the limits of such city or town. Material purchased under the provisions hereof shall be used only for the suppression of gypsy and brown tail moths and only upon land of the purchaser.

SECTION 2. The amounts due for material furnished under the provisions of section one shall be charged by the local moth superintendent to the owners of private estates and shall be collected in the same manner as the amounts assessed for private work, and shall be a lien on said estates in the same manner as the assessments for private work. The amount thus charged shall be deducted from the total amount expended in each city or town in the suppression of gypsy and brown tail moths in the same manner as the amounts charged for private work, as provided for in sections six and

seven of chapter three hundred and eighty-one of the acts of the year nineteen hundred and five and its several amendments. [*Approved May 7, 1913.*]

CHAPTER 404, ACTS OF 1914.

An Act to authorize Cities and Towns to suppress the Tent Caterpillar, Leopard Moth and Elm Beetle.

Be it enacted, etc., as follows:

SECTION 1. The city forester, superintendent or other person having charge of the suppression of gypsy and brown tail moths in each city and town in the commonwealth, or, where there is no such person, the tree warden, may destroy within the limits of his city or town the tent caterpillar, leopard moth and elm beetle, if authorized so to do by the mayor and city council or commission in cities, or by the selectmen in towns.

SECTION 2. For the purposes of this act the city forester or other officer designated in section one of this act may enter upon private land, and the owners of private land may be taxed for work done under the provisions of section one of this act in the manner provided by sections six and seven of chapter three hundred and eighty-one of the acts of the year nineteen hundred and five and acts in amendment thereof and in addition thereto: *provided, however*, that nothing contained in this act shall require the commonwealth to pay any part of any such expense, other than for the suppression of the gypsy and brown tail moths, that no land shall be assessed under the provisions of this act which has been assessed the maximum amount provided by said sections six and seven and amendments thereof for the suppression of

the gypsy and brown tail moths, and that the aggregate assessment on any parcel of private land for the suppression of the tent caterpillar, leopard moth, elm beetle and gypsy and brown tail moths shall not exceed the maximum provided by said sections six and seven and the amendments thereof.

SECTION 3. This act shall take effect upon its passage.
[Approved April 23, 1914.]

CHAPTER 171, ACTS OF 1915.

An Act to authorize Cities and Towns to purchase Arsenate of Lead for the Purpose of Suppressing Insect Pests.

Be it enacted, etc., as follows:

SECTION 1. For the purpose of assisting in the extermination of insect pests the city forester, local moth superintendent or tree warden in any city or town may obtain from the state forester at the cost thereof, arsenate of lead. Material purchased under the provisions hereof shall be used only for the suppression of gypsy and brown-tail moths, the tent caterpillar, leopard moth and elm beetle, and only upon lands owned or controlled by the city or town. The cost of said material shall be certified by the state forester to the treasurer of the commonwealth, and shall be collected by him as an additional state tax upon the city or town making such purchase.

SECTION 2. This act shall take effect upon its passage.
[Approved April 16, 1915.]



A primeval white pine. Height, 150 feet; diameter, breast high, 48 inches; contents, 5,000 board feet. (Photograph by R. T. Fisher.)

~~James, L.~~
~~P. Allen~~

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