

Commonwealth of Massachusetts
ATTORNEY-GENERAL'S REPORT

1904

Commonwealth of Massachusetts.

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE

YEAR ENDING JANUARY 18, 1905.



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1905.

Commonwealth of Massachusetts.

OFFICE OF THE ATTORNEY-GENERAL,

BOSTON, Jan. 18, 1905.

To the Honorable the President of the Senate.

I have the honor to transmit herewith my report for the year ending this day.

Very respectfully,

HERBERT PARKER,

Attorney-General.

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Commonwealth of Massachusetts.

OFFICE OF THE ATTORNEY-GENERAL,
State House.

Attorney-General.

HERBERT PARKER.

Assistants.

ROBERT G. DODGE.

FREDERICK H. NASH.

ARTHUR W. DEGOOSH.

FREDERIC B. GREENHALGE.

Law Clerk.

FRED T. FIELD.

Chief Clerk.

LOUIS H. FREESE.

STATEMENT OF APPROPRIATION AND EXPENDITURES.

Appropriation for 1904,	\$40,000 00
<i>Expenditures.</i>	
For law library,	\$636 35
For salaries of assistants,	14,808 33
For additional legal services,	3,224 81
For clerks,	3,793 39
For stenographers,	2,345 00
For messengers,	1,280 60
For office expenses,	2,853 43
For court expenses,*	2,456 46
Total expenditures,	\$31,398 37
Costs collected,	775 59
Net expenditure,	\$30,622 78

* Of this amount \$775.59 has been collected as costs of suits and paid to the Treasurer of the Commonwealth.

Commonwealth of Massachusetts

OFFICE OF THE ATTORNEY-GENERAL,

BOSTON, Jan. 18, 1905.

To the General Court.

In compliance with Revised Laws, chapter 7, section 8, I submit my report for the year ending this day.

The cases requiring the attention of the office during the year, to the number of 1,969, are tabulated below:—

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CAPITAL CASES.

Indictments for murder pending at the date of the last annual report have been disposed of as follows :—

GEORGE WILLIAM HERBERT, *alias* HUBER, indicted in Berkshire County, January, 1903, for the murder of Gertrude Otilie Bertha Rentall, at Monterey, Sept. 14, 1902. He was arraigned July 21, 1903, and pleaded not guilty. William Turtle and Charles Giddings were assigned by the court as counsel for the defendant. On Jan. 11, 1904, the defendant retracted his former plea of not guilty and pleaded guilty of murder in the second degree. This plea was accepted by the government, and the defendant was thereupon sentenced to State Prison for life. The case was in charge of District Attorney John F. Noxon.

ROSARIO DISANO of Stoughton, indicted in Norfolk County, September, 1903, for the murder of Hiram H. Poole, at Canton, Aug. 2, 1903. He was arraigned Sept. 11, 1903, and pleaded not guilty. James E. Cotter and Frank Keezer were assigned by the court as counsel for the defendant. This indictment was nol prossed on Sept. 20, 1904, and the defendant was indicted for murder in the second degree. On the latter indictment he was arraigned and pleaded guilty on April 28, 1904, and sentenced to State Prison for life. The case was in charge of District Attorney Asa P. French.

SELMAR AKERSON of Quincy, indicted in Norfolk County, December, 1903, for the murder of her infant child, at Quincy, Sept. 10, 1903. She was arraigned Dec. 14, 1903, and pleaded not guilty. On April 5, 1904, the defendant retracted her former plea of not guilty and pleaded guilty to manslaughter. This plea was accepted by the government, and thereupon the defendant was sentenced to the Reformatory Prison for Women for an indefinite period. This case was in charge of District Attorney Asa P. French.

JOHN E. GALLAGHER of Taunton, indicted in Bristol County, February, 1900, for the murder of Joseph F. McMahon, at Taunton, Nov. 21, 1899. He was arraigned April 22, 1903, and pleaded not guilty. Milton Reed and Harold F. Hathaway were assigned as counsel for the defendant. The indictment for murder was nol prossed and the defendant was indicted for murder in the second degree. On Feb. 16, 1904, he was tried upon this indictment and found guilty, and sentenced to State Prison for life. The case was in charge of District Attorney James M. Swift.

Indictments for murder, found since the date of the last annual report, have been disposed of as follows:—

EMANUEL T. BURNETT of Boston, indicted in Suffolk County, April, 1904, for the murder of Martha Chandler, at Boston, March 23, 1904. He was arraigned April 15, 1904, and pleaded not guilty. James H. Wolff was assigned by the court as counsel for the defendant. On May 20, 1904, the defendant retracted his former plea and pleaded guilty of murder in the second degree. This plea was accepted by the government, and thereupon the defendant was sentenced to State Prison for life. The case was in charge of District Attorney Oliver Stevens.

CYRUS L. RYAN, indicted in Plymouth County, February, 1904, for the murder of Quong Sing, at Hanover, Jan. 28, 1904. He was arraigned Feb. 4, 1904, and pleaded not guilty. Fred M. Bixby, Esq., and John F. Callanan, Esq., were assigned by the court as counsel for the defendant. In June, 1904, the defendant was tried by a jury, before Hardy and Stevens, JJ. The result was a verdict of murder in the second degree. On June 15, 1904, the defendant was sentenced to State Prison for life. The case was in charge of District Attorney Asa P. French.

EUGENE LAFORREST STAFFORD, indicted in Suffolk County, March, 1904, for the murder of Mayner B. Trussell, at Boston, on Feb. 17, 1904. He was arraigned Sept. 10,

1904, and pleaded not guilty. Hiram P. Harriman, Esq., and John F. Duffy, Esq., were assigned by the court as counsel for the defendant. On Nov. 3, 1904, the indictment was nol prossed. The case was in charge of District Attorney Oliver Stevens.

WILLIAM A. PARKER, indicted in Suffolk County, May, 1904, for the murder of Eleanora Cobb, at Boston, April 8, 1904. He was arraigned May 11, 1904, and pleaded not guilty. F. J. Daggett, Esq., and E. F. McClennen, Esq., were assigned by the court as counsel for the defendant. On Oct. 22, 1904, the defendant retracted his former plea of not guilty and pleaded guilty of murder in the second degree. This plea was accepted by the government, and thereupon he was sentenced to State Prison for life. The case was in charge of District Attorney Oliver Stevens.

WILLIAM PHILLIPS, indicted in Suffolk County, September, 1904, for the murder of Edward Murray, at Boston, Aug. 23, 1904. He was arraigned Sept. 20, 1904, and pleaded not guilty. Thomas J. Barry, Esq., was assigned by the court as counsel for the defendant. On Nov. 15, 1904, the defendant retracted his former plea of not guilty and pleaded guilty of murder in the second degree. This plea was accepted by the government, and thereupon he was sentenced to State Prison for life. The case was in charge of District Attorney Oliver Stevens.

RAY C. JOHNSON, indicted in Suffolk County, February, 1904, for the murder of Sarah A. Peters, at Boston, Jan. 5, 1904. He was arraigned Feb. 11, 1904, and pleaded not guilty. John J. Walsh, Esq., and John F. Lynch, Esq., were assigned by the court as counsel for the defendant. On June 27, 1904, so much of the indictment as charged murder in the first degree was nol prossed, and the defendant was tried by a jury before Bond, J., on the charge of murder in the second degree. The result was a verdict of guilty, and the defendant was sentenced to State Prison for life. The case was in charge of District Attorney Oliver Stevens.

JOSEPH A. HASTINGS, indicted in Essex County, May, 1904, for the murder of Dora T. Trask, at Beverly, March 3, 1904. He was arraigned May 31, 1904, and pleaded not guilty. Edward F. Carney, Esq., and Alden P. White, Esq., were assigned by the court as counsel for the defendant. On Jan. 9, 1905, the defendant retracted his former plea and pleaded guilty of murder in the second degree. This plea was accepted by the government, and thereupon he was sentenced to State Prison for life. The case was in charge of District Attorney W. Scott Peters.

The following indictments for murder are now pending : —

ANGLES SNELL, indicted in Bristol County, November, 1903, for the murder of Tillinghast Kirby. He was arraigned Nov. 18, 1903, and pleaded not guilty. Hugo A. Dubuque and James P. Doran were assigned by the court as counsel for the defendant. In September, 1904, the defendant was tried by a jury before Aiken and Schofield, JJ. The result was a verdict of guilty of murder in the first degree. On Sept. 30, 1904, the defendant filed exceptions, which are still pending. The trial was conducted by the Attorney-General, with District Attorney James M. Swift.

NOCHOLAS DI FLAVIO, indicted in Essex County, May, 1904, for the murder of Giacomo Grassi, at Haverhill, May 8, 1904. He was arraigned May 19, 1904, and pleaded not guilty. No further action has been taken in this case. The case is in charge of District Attorney W. Scott Peters.

JOSEPH H. SEATON, indicted in Hampden County, May, 1904, for the murder of Estelle Taylor, at Springfield, March 11, 1904. He was arraigned May 9, 1904, and pleaded not guilty. Edward A. McClintock was assigned by the court as counsel for the defendant. No further action has been taken in this case. The case is in charge of District Attorney John F. Noxon.

CHARLES L. TUCKER, indicted in Middlesex County, June, 1904, for the murder of Mabel Page, at Weston,

March 31, 1904. He was arraigned June 16, 1904, and pleaded not guilty. James H. Vahey, Esq., and Charles H. Innes, Esq., were assigned by the court as counsel for the defendant. Trial, conducted for the Commonwealth by the Attorney-General, with District Attorney George A. Sanderson and Assistant District Attorney Hugh Bancroft, was entered upon Jan. 2, 1905.

ANTONIO CARACCILO, indicted in Hampden County, December, 1904, for the murder of Giuseppe La Rosa, at Springfield, Nov. 13, 1904. The defendant has not yet been arraigned. This case is in charge of District Attorney John F. Noxon.

HENRY F. BOLLES, indicted in Norfolk County, December, 1904, for the murder of Annie M. Bolles and Joseph McMurray, at Brookline, Oct. 17, 1904. He was arraigned Dec. 22, 1904, and pleaded not guilty. Thomas E. Grover, Esq., and Frederick G. Katzmann, Esq., were assigned by the court as counsel for the defendant. No further action has been taken. The case is in charge of District Attorney Asa P. French.

THE COURTS.

The pressure of business upon the several courts of the Commonwealth is constantly increasing, and some further steps in the direction of relief are much to be desired. The law now provides (Revised Laws, chapter 158, section 10) that upon attaining the age of seventy a justice of either the Supreme Judicial Court or the Superior Court may resign, thereafter receiving during the remainder of his life an amount equal to three-fourths of the salary received by him at the time of his resignation. A similar provision is applicable to justices of such courts whose retirement is caused by disability.

I suggest for your consideration whether it may not be advisable to so amend existing statutes as to make available the services of a justice so retired, with his consent and upon request of the chief justice of the court from which he has retired, for specific causes and for such periods as his health and inclination may permit.

By Revised Laws, chapter 156, section 5, the Supreme Judicial Court is given original and concurrent jurisdiction with the Superior Court of actions of contract and replevin in which the damages demanded or the property claimed exceed in actions brought in the county of Suffolk \$4,000, and in actions brought in other counties \$1,000.

The tendency of recent legislation has been in the direction of making the Supreme Judicial Court a tribunal of appellate jurisdiction, and in accordance with this policy I recommend that such court be relieved of the burden of the trial of cases of contract and replevin by the repeal of the section above referred to. The number of cases brought under this section has become a serious inconvenience to the court, and there appears to be no good reason why this section should be longer retained.

IMPRISONMENT IN BASTARDY CASES.

Under Revised Laws, chapter 82, regulating the prosecution of bastardy complaints, the defendant, after examination in the inferior court and in default of bail, may be committed to prison to await further proceedings in the Superior Court. The complainant, however, is under no duty to continue the prosecution of her complaint in that court, and the defendant, if without competent legal advice and without means, is subjected to the hardship of an indefinite imprisonment, there being no officer now authorized to take steps for his relief or to call the attention of the court to his unfortunate condition so that he may be discharged.

It has been called to my attention that under these circumstances cases of genuine hardship have arisen, and I recommend that legislation be enacted making it the duty of district attorneys, probation officers or other proper authorities, upon notification from jailers or heads of penal institutions that the confinement of a defendant in bastardy proceedings has been unreasonably prolonged, to report the fact of such confinement to the Superior Court, which, after suitable investigation, may order the discharge of the person so confined.

of encumbrances and petitions to discharge mortgages, and this jurisdiction is made original and exclusive.

Doubt has arisen as to the construction of the statute of 1904 with relation to the jurisdiction of cases pending in the Superior Court at the time of its enactment. I therefore recommend such amendatory legislation as shall distinctly provide that jurisdiction as to all cases pending when the new act became operative shall be retained by the courts in which they were so pending.

OFFICE OF THE ATTORNEY-GENERAL.

The increasing volume of business transacted by the office of the Attorney-General and the increased amount of expenses occasioned thereby have necessitated increased expenditures from time to time, and the provision of Revised Laws, chapter 6, section 35, limiting the amount which officers expending money in behalf of the Commonwealth may have advanced from the treasury to the sum of \$150 at any one time, has in some instances caused serious inconvenience in the administration of the department. There are already many exceptions to the restriction imposed by the section above quoted, and I recommend that it be further amended to permit the Attorney-General to have advanced to him the sum of \$500 at any one time in place of the amount now prescribed by law.

On the first day of September, 1904, Mr. Ralph A. Stewart, after more than three years of faithful and efficient service as Assistant Attorney-General, resigned that position to enter upon private practice. His performance of the duties devolving upon him was always characterized by conspicuous ability, and his constant and conscientious devotion to the welfare of the Commonwealth merits the highest commendation. No appointment has as yet been made to fill the vacancy created by the resignation of Mr. Stewart.

Annexed to this report are the principal opinions prepared during the current year.

Respectfully submitted,

HERBERT PARKER,
Attorney-General.

OPINIONS.

Hours of Labor — Employees of the Commonwealth — “Office Work.”

R. L., c. 106, § 19, providing that “nine hours shall constitute a day’s work for all laborers, workmen and mechanics who are employed by or in behalf of the commonwealth,” does not include employees whose duties are of such a character as to bring them within the term “office work,” and the hours of labor for employees so engaged may be determined by the period of service required for the proper performance of the work of the department in which they are employed.

JAN. 27, 1904.

HON. HENRY S. PRITCHETT, *Chairman, Charles River Basin Commission.*

DEAR SIR:—Your inquiry is directed to the question whether or not there exists any statutory regulation which fixes the hours of labor of employees of your commission “engaged in office work.”

St. 1903, c. 229, amending R. L., c. 18, § 13, provides that:—

The offices of all the departments of the state government shall be open to the public for the transaction of business daily, except on Sundays and legal holidays, from nine o’clock in the forenoon until five o’clock in the afternoon, except on Saturdays, when they may be closed at twelve o’clock, noon. The treasurer and receiver general shall not be required to keep his office open for the receipt and payment of money later than two o’clock in the afternoon.

The word “departments” as above used has no technical signification and applies as well to any distinct division of the executive branch of the government as to the departments of the Secretary, Treasurer and Receiver-General, and other administrative offices of the Commonwealth. See R. L., c. 18; P. S., c. 21. There is no apparent reason, therefore, why the section above quoted should not be applicable to the Charles River Basin Commission. But the requirement that offices of the several departments of the Commonwealth shall be open for business during the hours specified is intended for the benefit of such members of the public as may be brought into business relations with such departments, and is not in any sense a regulation of the hours of labor of the employees therein. If, in the opinion of those to whose responsibility and discretion the business of such depart-

ment is intrusted, the labor of the employees within the hours specified in the section above quoted is sufficient to accomplish, with due care and diligence, the business of the department, the hours of labor for employees who perform office work may well be made to coincide with the period during which, under St. 1903, c. 229, the office of the department must be kept open for business.

On the other hand, I am aware of no statutory regulation which would prevent the heads of the several departments of the Commonwealth from requiring a longer period of service from employees engaged in office work, if such additional service should be necessary for the proper performance of the work of the department.

There is in R. L., c. 106, § 19, a provision to the effect that "nine hours shall constitute a day's work for all laborers, workmen and mechanics who are employed by or in behalf of the commonwealth, or of any county, city or town therein. . . ." While this section obviously applies to all laborers, workmen and mechanics who may be employed by your commission, in my opinion it is not to be construed to extend to or include employees whose duties are of such a character as to be properly within the term "office work."

Very truly yours,

HERBERT PARKER, *Attorney-General.*

Licenses — Engineers and Firemen — Citizenship and Residence of Applicant.

An applicant for a license under the provisions of R. L., c. 102, § 81, to act as engineer or fireman, is entitled to be examined, and, if found competent, to receive his license, notwithstanding the fact that he is not a citizen of this Commonwealth and that his residence therein appears to be only temporary.

FEB. 4, 1904.

JOSEPH E. SHAW, Esq., *Deputy Chief, Massachusetts District Police.*

DEAR SIR:—R. L., c. 102, § 81, provides in part as follows: "Whoever desires to act as engineer or fireman shall apply for a license therefor to the examiner of engineers for the city or town in which he resides or is employed."

Your communication states that under this statute a person has presented himself to one of the inspectors of police in your department for the purpose of being examined as to his qualifications as an engineer. The applicant has lived in the State since last November, and it is stated that the evident purpose of the application is to obtain a license "supposedly to be used as a recommendation for employment in some other State." Under these circumstances you desire to be informed whether, under the exist-

ing law, the inspector may examine, and, if qualified, issue to such applicant a license. You further inquire how the word "resident" as used in this statute is to be construed.

In general, a resident of a particular locality is one whose place of abode is there and who has no present intention of removing therefrom. So in *Lawson v. Adlard*, 46 Minn. 243, the court say: "To put it concisely, a 'resident' of a place is one who dwells in that place for some continuance of time for business or other purposes, although his domicile may be elsewhere."

In the statutes of the Commonwealth the word "resident" has been commonly identified with the word "inhabitant," and a somewhat restricted construction has been given to it, inhabitants and residents being construed to mean citizens. See *Opinion of the Justices*, 7 Mass. 523. This construction, however, is not the only one which may be given to the term, as is intimated in *Lee v. City of Boston*, 2 Gray, 484, 490, where it is said that "the words 'inhabitant' and 'resident,' 'inhabitancy' and 'residence,' are commonly, though not invariably, used in the Constitution and laws of this Commonwealth as synonymous. There are a few passages in them where 'residents' has a somewhat broader significance than 'inhabitants,' and designates a class of persons who have no domicile within the State. Thus, where the Constitution confers authority upon the General Court to impose and levy assessments, rates and taxes upon all 'the inhabitants of and persons resident and estates lying within the Commonwealth,' it is apparent that the phrase 'persons resident' includes individuals who have no permanent home here, and are not strictly inhabitants of the State."

In the present instance I am of opinion that the word "resides" is used with a more general signification than that of citizenship, and that the statute does not restrict application for licenses thereunder to citizens of the Commonwealth. The obvious purpose of the act is to secure the safety of the public by requiring persons assuming to take charge of steam boilers and engines to demonstrate their fitness for such work, and has no necessary reference to the question of their domicile or citizenship. I cannot believe that the statute intended to distinguish between citizens and persons temporarily resident in the Commonwealth, and to exclude all persons except citizens from the business of operating steam boilers or engines; and, in my judgment, the word "resides" as used in R. L., c. 102, § 81, is to be construed in connection with the word "employed," and is of effect only to designate and establish the particular examiner to whom the applicant shall present himself.

In the particular case before me, therefore, I am of opinion that the applicant is entitled to be examined and to receive a license, provided he successfully passes the required examination.

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Commonwealth's Land — Conveyance — Board of Harbor and Land Commissioners.

The Board of Harbor and Land Commissioners, under the provisions of R. L., c. 96, § 3, has no general authority to convey land belonging to the Commonwealth.

MARCH 23, 1904.

HON. WOODWARD EMERY, *Chairman, Board of Harbor and Land Commissioners.*

DEAR SIR:— You inquire whether, under the provisions of R. L., c. 96, § 3, your Board is authorized to sell and convey to the Old Colony Street Railway Company certain land on Mount Hope Bay in the city of Fall River.

R. L., c. 96, § 3, is as follows:—

Said board shall, except as otherwise provided, have charge of the lands, rights in lands, flats, shores and rights in tide waters belonging to the commonwealth, and shall, as far as practicable, ascertain the location, extent and description of such lands; investigate the title of the commonwealth thereto; ascertain what parts thereof have been granted by the commonwealth; the conditions, if any, on which such grants were made, and whether said conditions have been complied with; what portions have been encroached or trespassed on, and the rights and remedies of the commonwealth relative thereto: prevent further encroachments and trespasses; ascertain what portions of such lands may be leased, sold or improved with benefit to the commonwealth and without injury to navigation or to the rights of riparian owners; and may lease the same for periods not exceeding five years. It may make contracts for the improvement, filling, sale, use or other disposition of the lands at and near South Boston known as the Commonwealth Flats, may lease any portion thereof with or without improvements thereon, for such periods and upon such terms as it shall deem best, may regulate the taking of material from the harbor and fix the lines thereon for filling said lands, and shall cause a general plan of said lands to be prepared, whereon it shall designate the portions which in its opinion should be devoted to railway and commercial purposes and those which should be devoted to general purposes. All conveyances, contracts and leases made under the provisions of this section shall be subject to the approval of the governor and council.

The Board of Harbor and Land Commissioners was created by St. 1879, c. 263, with all the powers of the previously existing

and separate boards of Harbor Commissioners and Land Commissioners. Undoubtedly, at the time when this statute was passed the Board of Land Commissioners had authority to convey land of the Commonwealth subject, in general, to the approval of the Governor and Council. See Gen. St., c. 5, § 15; Res. 1859, cc. 52, 103; Gen. St., c. 15, § 23.

In the revision of 1882, however, embodied in P. S., c. 19, § 3, the authority to sell land belonging to the Commonwealth was omitted from the section defining the powers of the Board of Harbor and Land Commissioners, and as it now exists in R. L., c. 96, § 3, which is a practical re-enactment of P. S., c. 19, § 3, no such authority is conferred, except in the case of lands at or near South Boston, known as the Commonwealth Flats. In view of the fact that this authority to sell disappears in 1882 and was not re-enacted in the Revised Laws, which now govern the action of the Board, it is interesting to observe that in the case of the lands above referred to, such authority is specifically given, and the use of the word "sale" in that connection, in my opinion, is of weight to show that it was intentionally omitted in the earlier provisions of R. L., c. 96, § 3.

In spite of the able and exhaustive brief of counsel for the petitioner for the execution of such sale, therefore, I am of opinion that the Board of Harbor and Land Commissioners is not authorized to convey to the Old Colony Street Railway Company land situated in or near the city of Fall River, and that if such a sale is desirable, competent authority must be secured to effect it.

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Insurance — Burial Association — Foreign Corporation.

A so-called "burial association" which assesses its members, and, upon the death of a member, furnishes the services of an undertaker and the supplies incidental to a funeral to the value of \$100, is an insurance company within the meaning of R. L., c. 118, § 65, and is subject to the provisions of the insurance laws.

Such an association, incorporated under the laws of a foreign State, would not be permitted to enter the Commonwealth under the provisions of R. L., c. 126, § 2, relating to foreign corporations, for the purpose of doing the business for which it was incorporated.

APRIL 1, 1904.

HON. FRANK M. HEATH, *Chairman, Committee on Insurance*.

SIR: — I have the honor to reply to your inquiries submitted to me in the following form of question:—

"1. Is a burial association an insurance corporation within the

meaning of the laws of this State, and subject to our laws relating to insurance corporations?"

You state that the burial association referred to in your inquiry is conducted as follows: "It has a president, secretary, treasurer and board of directors. Members are elected by the directors. The conditions of membership are that each member shall pay a certain sum as an entry fee, and that he shall also pay any assessment. Assessments are limited to 12 cents, assessable upon the death of an adult member, and 7 cents, assessable upon the death of a child member. If there is sufficient money in the treasury to pay burial expenses upon the death of a member there is no assessment. Upon the death of a member no sum of money is paid to his family or representatives, but the contract of membership provides that an undertaker, employed by the association, shall furnish all that is required for the burial, at a cost estimated to be \$100 in the case of an adult and \$50 in the case of a child. There is no limit to the number of members other than as stated above. Each member must be a resident of the State, and membership may be limited to residents of a particular city or town."

Section 65 of chapter 118 of the Revised Laws provides that "all corporations, associations, partnerships or individuals doing business under any charter, compact, agreement, or statute of this or any other state, involving the payment of money or other thing of value to families or representatives of policy and certificate holders or members, conditioned upon the continuance or cessation of human life, shall be deemed to be life insurance companies, and shall be subject to the provisions of the insurance laws."

The association whose case is presented by your statement assesses its members, and upon the death of a member furnishes the services of an undertaker and the supplies incidental to a funeral to the value of \$100. It is, therefore, in my opinion, an insurance company. Such an association, incorporated in another State, upon complying with the laws relating to foreign corporations, would not be entitled to do business here.

You further inquire whether the United States Burial League, a copy of whose contract you have forwarded to me and which is herewith returned, would be allowed to enter the Commonwealth under the laws relating to foreign corporations, and do the business for which they have been incorporated in the State of New Jersey. This inquiry I must answer in the negative.

Very truly yours,

HERBERT PARKER, *Attorney-General.*

Registered Pharmacist — Suspension of License or Certificate of Registration — Conviction.

The Board of Registration in Pharmacy, under R. L., c. 76, § 17, which provides in part that "the license or certificate of registration of a registered pharmacist shall not be suspended for a cause punishable by law until after his conviction by a court of competent jurisdiction," may suspend the certificate of registration or license of a registered pharmacist who has been duly found guilty of the illegal sale of intoxicating liquors and sentenced to pay a fine therefor and who has paid such fine, notwithstanding the fact that exceptions thereto have been filed and allowed and are still pending for argument before the Supreme Judicial Court.

APRIL 22, 1904.

C. F. NIXON, Esq., *Secretary, Board of Registration in Pharmacy.*

DEAR SIR: — The Board of Registration in Pharmacy requests the opinion of the Attorney-General upon the following state of facts: a pharmacist was found guilty of illegal selling of intoxicating liquors, and sentenced to pay a fine thereon. He paid this fine and filed exceptions, which were allowed and are still pending in the Supreme Judicial Court awaiting argument; the specific question submitted being, is there, upon such state of facts, a conviction within the meaning of R. L., c. 76, § 17, which is as follows: —

If the full board sitting at such hearing finds the person guilty, the board may suspend the effect of the certificate of his registration as a pharmacist for such term as the board fixes, but the license or certificate of registration of a registered pharmacist shall not be suspended for a cause punishable by law until after his conviction by a court of competent jurisdiction.

I am of opinion that there is upon the facts presented such a conviction as is contemplated by the statute authorizing the Board of Registration in Pharmacy to suspend a license or certificate of registration of such pharmacist. The word "conviction" is used in our statutes in two different senses, and in the statute above quoted it is to be taken in its more usual sense, that is, as meaning "the confession of the accused in open court or verdict returned against him by the jury which ascertains and publishes the fact of his guilt," and does not necessarily contemplate a sentence of the court.

It has been held that the intention of the statute is to give a pharmacist charged with a crime the right to a trial in the court having jurisdiction of his offence, but if his guilt be there established so that the court may impose sentence according to its powers, then it is sufficiently established for the board of pharmacy

to act upon their finding and to impose the penalty according to their powers.

Upon the facts submitted to me it would seem that the guilt of the defendant was so far established as to empower the court to impose a sentence, and, indeed, it appears that the court, in the exercise of that power, had imposed sentence and rightly so, notwithstanding the exceptions, taken, under the provisions of R. L., c. 220, § 3.

A like rule of construction of the word "conviction" is disclosed in the opinion of the court in *Commonwealth v. Lockwood*, 109 Mass. 323, where it was held that the Governor, with the advice of the Council, might grant a pardon of an offence after verdict of guilty, and before sentence, and while exceptions allowed by the judge were pending in the Supreme Court for argument. This decision was made having regard to the provision of the Constitution, which refers to the pardoning power in the following language: "The power of pardoning offences, except such as persons may be convicted of before the senate by an impeachment of the house, shall be by the governor, by and with the advice of council; but no charter of pardon, granted by the governor, with the advice of the council before conviction, shall avail the party pleading the same . . .," from which it appears that a conviction upon which alone the power to pardon must rest may exist before sentence of the court is imposed.

I am therefore of opinion that upon the facts stated your Board may hold that a conviction, within the meaning of R. L., c. 76, § 17, appears upon which a suspension of the license or certificate of the party so convicted may be made.

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Co-operative Bank — Consolidation — Rights of Minority — Constitutional Law.

The Legislature has no power to compel the minority members in an existing co-operative bank, which is not a stock corporation, to surrender their interest in such bank in exchange for an interest in a consolidated bank, as prescribed in House Bill No. 1181; but if enacted, the provisions of such bill will govern the rights of all members of co-operative banks organized after its passage, and will serve to authorize the consolidation of existing co-operative banks, if such consolidation is assented to by all the members.

APRIL 22, 1904.

Hon. GUY A. HAM, *Chairman, Committee on Bills in the Third Reading.*

SIR:— Your committee desires my opinion on the constitutionality of House Bill No. 1181, which authorizes the consolidation

of two or more co-operative banks doing business in the same city or town.

The bill provides for the consolidation of such co-operative banks in the following manner: If two-thirds of the members of each bank in writing approve of the consolidation, and if two-thirds of the members present and voting, at a special meeting duly called, vote in favor of consolidation, and if the Board of Savings Bank Commissioners approve, an order may be passed by the Board requiring the consolidation. Such order shall provide that the assets of the merged bank be turned over to the continuing bank, and that the latter assume all liabilities accrued on the former's outstanding shares. As to the rights of the shareholders in the merged bank, it provides: "No more shares shall be sold by or in behalf of a bank or banks so taken over, and for every share of such bank or banks there shall be issued to the holder thereof a share of the continuing bank of the series of the nearest and lower value, and the difference in the values of the old share and the new share so issued shall be paid forthwith to the said owner in cash; provided that such a new share, issued to take the place of a pledged share of the terminating bank, shall be issued as a share pledged under the original loan, and the said difference in value shall either be paid in cash to the owner of the pledged share or be credited on his original loan at the election of the continuing bank."

The effect of a consolidation upon the interests of a dissenting member should be carefully noted. When he took a share of stock in the A co-operative bank, he thereby agreed to pay to that bank \$1 per month until there should stand to his credit from his payments and the profits derived from the use of his money the sum of \$200, or until the share shall be withdrawn or forfeited. He might withdraw at any time before pledging his share, and receive, under certain restrictions, the money standing to his credit. If he should fall in arrears upon his monthly payments, and so continue more than six months, his share, at the option of the directors, might be forfeited, and he be paid the value of his share less a small fine for being in arrears.

Should this bill become law, according to its terms a two-thirds majority of the members of the A bank, acting with two-thirds of the members of the B bank, could compel a dissenting member in the former bank to make his monthly payments to the latter bank or else withdraw his share. The by-laws and rules of the B bank would govern him instead of those of the bank of which he originally became a member. If he takes a share in the B bank, the share given him is of the series having a value next below that of the series in the A bank, to which his old share

belonged. The difference in value between the exchanged share and the new one, arising from the fact that the member had paid in more on the share in the A bank than the share in the B bank being of a later series credits him with, is given to him in cash, or, if he is a borrowing member, may be credited to him on his loan. Then if he does not keep up his payments on the new share, he ceases to be a member, and if he is a borrowing member, his security will be foreclosed.

It is apparent that the situation is different from that presented by a consolidation of ordinary public service corporations having fully paid shares, wherein there is a provision for buying, at their properly determined value, the shares of dissenting stockholders. In such a case the shares of the minority are taken from them, under legislative authority, upon payment of just compensation. Here no provision is made for taking their interest in the A bank at a properly appraised value paid by the B bank. The members are transferred, with their executory obligations, from one to the other. We have, therefore, no need to consider the power of the Legislature, in view of the public good to be derived from a merger of two banks, to require the property of the minority to be taken and paid for. See *Black v. Delaware & Raritan Canal Co.*, 24 N. J. Eq. 455.

The question is whether the Legislature may, with the approval of two-thirds of the members of each corporation, compel a dissenting member to enter into a new contract with a different corporation.

At the beginning of the discussion certain uncontrovertible propositions may be stated.

It is not within the power of a co-operative bank, organized under the general laws, to consolidate with another without the consent of the Legislature. *N. Y., etc., Canal Co. v. Fulton Bank*, 7 Wend. 412; *Noyes, Intercorporate Relations*, §§ 17, 18.

It is within the power of a co-operative bank created by special charter to consolidate with another only when its charter permits it. Since the present bill applies to all co-operative banks, in considering its validity we need not investigate the charters of such co-operative banks as were created by special acts.

The power to merge with another similar institution is not one of the implied powers in furtherance of the objects of a co-operative bank. When a person enters one bank as a member of the association, he agrees to be bound by such acts as the majority may decide as advisable within the scope of the corporate purposes. He does not agree that the corporation may transfer all its liabilities and assets, including its contract with him, to another corporation.

Clearwater v. Meredith, 1 Wall. 25; *McCray v. Junction R.R. Co.*, 9 Ind. 358; *Botts v. Simpsonville, etc., Turnpike Co.*, 88 Ky. 54; *Oldtown & Lincoln R.R. Co. v. Veazie*, 39 Me. 580.

So far as the right of the State to object to such departure from the corporate purposes goes, that may be waived by the Legislature in passing an act authorizing consolidation upon unanimous vote of the members of both banks. The Legislature, however, has no power to waive for an individual shareholder his right to object that the corporation is transgressing the limits of its powers. When he invested his money in the co-operative bank he authorized the majority to act for him within the scope of its chartered powers. The transfer of his contractual right to another co-operative bank he did not authorize.

The discharge of one contracting party and the substitution of a new one are a serious impairment of the obligation of his contract. See *Hamilton Mutual Insurance Company v. Hobart*, 2 Gray, 543.

It being established that the consolidation is a vital departure from the purposes for which the constituent banks were organized, the important question is as to the effect of R. L., c. 109, § 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."

Did the existence of this act at the time of the creation of the constituent co-operative banks have the effect of making their members agree in advance to whatever changes of purpose the Legislature might authorize, no matter how radical?

The doctrine of certain cases is that by virtue of this reserved power the dissenting shareholder in a stock corporation may be bound by a change the effect of which would otherwise be to release him. See *Durfee v. Old Colony, etc., R.R. Co.*, 5 Allen, 230; *Buffalo and New York City R.R. Co. v. Dudley*, 14 N. Y. 336. But I believe this view to be erroneous. Such power was reserved by the Legislature on account of the decision in the Dartmouth College case, that a charter is a contract within the meaning of the constitutional provision that no State shall pass a law impairing the obligation of a contract. This decision was supposed to deprive the States of that power of control over corporations which the public welfare demanded.

Accordingly, nearly all the States passed laws reserving the power of amending or repealing charters, but this power was never reserved for the purpose of enabling a corporation to alter in a

radical manner the contract between its shareholders or for the purpose of enabling the corporation to impair a contract between itself and its members. It was solely to avoid the effect of the decision that the charter itself was a contract between the State and the corporation. The Legislature under this power may impose new duties and new restraints upon corporations in the prosecution of enterprises already undertaken, whether they should be assented to or not. But the Legislature cannot impose upon the minority of a corporation the duty of embarking in a new enterprise or of substituting their contracts with one corporation for similar contracts with another. All the Legislature may do is to grant the power, and then it is for the corporation to accept it or not, as it pleases. The right, therefore, to bind dissenting stockholders derives no additional support from the fact that the power of amending the charter had been reserved by the Legislature, but depends essentially upon the question whether the change is of such a character that it may be deemed so far in furtherance of the original undertaking and incident to it as to be fairly within the power of the corporation to bind its individual members by its corporate assent, or whether it is such a departure from the original purpose that no member should be deemed to have authorized the corporation to assent to it for him. See *Kenosha, etc., R.R. Co. v. Marsh*, 17 Wis. 13; *Dow v. Northern R.R.*, 67 N. H. 1; *Mills v. Central R.R. Co.*, 41 N. J. Eq. 1; *N. H. & Derby R.R. Co. v. Chapman*, 38 Ct. 56, 71; *Zabriskie v. Hackensack, etc., R.R. Co.*, 18 N. J. Eq. 178. In the last case the court said: "The object and purpose of these provisions are so plain and so plainly expressed in the words that it seems strange that any doubt could be raised concerning it. It was a reservation to the State for the benefit of the public, to be exercised by the State only. The State was making what had been decided to be a contract, and it reserved the power of change by altering, modifying or repealing the contract. Neither the words, nor the circumstances, nor apparent objects for which this provision was made, can, by any fair construction extend it to giving a power to one part of the corporators as against the other, which they did not have before."

I should advise that this latter view is the correct one, and that the reserved power gives the Legislature merely the right to amend the charters of corporations as between corporation and State, not as between the majority and minority within the corporation, without hesitation, except for the fact of two Massachusetts decisions. *Durfee v. Old Colony, etc., R.R. Co.*, 5 Allen, 230; *Hale v. Cheshire R.R.*, 161 Mass. 443. The reasoning of the Massa-

chusetts court in the former case is based upon the assumption that the reservation by the State of the power to alter, amend or repeal the charter of a corporation is intended not merely for the protection of the public, but also to enable the Legislature to authorize a corporation to engage in new enterprises solely for its own benefit and whether any interests of the public are concerned or not. If the reasoning is sound, then the Legislature might authorize a majority of the stockholders of a manufacturing company to engage in banking, insurance or railroading against the dissent of the minority. Under this doctrine the money invested by a stockholder in a corporation, and his contract with it, are at the mercy of the Legislature and a majority of the stockholders. I quote from the language of the court, Bigelow, C.J., page 243 *et seq.* : “When, therefore, it is expressly provided between the Legislature on the one hand and the corporation on the other, as a part of the original contract of incorporation, that the former may change or modify or abrogate it or any portion of it, it cannot be said that any contract is broken or infringed when the power thus reserved is exercised with the consent of the artificial body of whose original creation and existence such reservation formed an essential part. The stockholder cannot say that he became a member of the corporation on the faith of an agreement made by the Legislature with the corporation, that the original act of incorporation should undergo no change except with his assent. Such a position might be asserted with more plausibility if there was an absence of a clause in the original act of incorporation providing for an alteration in its terms. In such a case it might perhaps be maintained that there was a strong implication that the charter should remain inviolate, and that the holders of shares invested their property in the corporation relying upon a contract entered into between it and the Legislature that the provisions of the act creating it should remain unchanged. But it is difficult to see how such a construction can be put on a contract which contains an express stipulation that it shall be subject to amendment and alteration. If it be asked by whom such amendment or alteration is to be made, the answer is obvious: by the parties to the contract, the Legislature on the one hand and the corporation on the other; the former expressing its intention by means of a legislative act, and the latter assenting thereto by a vote of the majority of the stockholders, according to the provisions of its charter. It is nothing more than the ordinary case of a stipulation that one of the parties to a contract may vary its terms with the assent of the other contracting party. In such case, all persons claiming derivative rights or interests under the original contract, with notice of its terms,

would be bound by the amendment or alteration to which the parties should agree. . . . It is a mistake, therefore, to say that the contract of a stockholder with a corporation established under our statutes binds the latter to undertake no new enterprise and engage in no business or operation other than that contemplated by the original charter. This interpretation puts aside the express provision authorizing an amendment or alteration of the act of incorporation, and gives it no effect against a stockholder without his assent, although he bought his stock or subscribed for his shares subject to the legal effect of such a stipulation. The infirmity of the argument in behalf of the plaintiff is that it admits that an amendment may be legal and valid as to the corporation, if they assent to it by a vote of the majority, while at the same time it sets it aside as against the stockholder who refuses to sanction it, on the ground that as to him it is illegal and void. But we cannot see how the amendment can be said to be legal and illegal *uno et eodem flatu*. If it is valid as to the corporation, for the reason that they have accepted and approved it according to the provisions of their charter, it would seem that it must also be binding on the stockholder, who has agreed that his rights and interests in the corporation shall be regulated and controlled by a vote of a majority, acting in conformity to the original constitution of the corporation, and within the scope of its corporate powers. The real contract into which the stockholder enters with the corporation is that he agrees to become a member of an artificial body which is created and has its existence by virtue of a contract with the Legislature, which may be amended or changed with the consent of the company, ascertained and declared in the mode pointed out by law. Having, by virtue of the relation which subsists between himself and the corporation as a holder of shares, assented to the terms of the original act of incorporation, he cannot be heard to say that he will not be bound by a vote of the majority of the stockholders accepting an amendment or alterations of the charter made in pursuance of an express authority reserved to the Legislature, and which by such acceptance has become binding on the corporation."

This reasoning is unsound because it leaves out of sight the contract made by the shareholders of a corporation with each other, which is the basis of incorporation, and considers the charter only as a contract with the State. The decision, however, is not necessarily inconsistent with the true view. The new enterprise which a dissenting stockholder sought to enjoin was an extension of the railroad from Fall River to Newport by building as far as the State line and taking a lease of the Rhode Island railroad. This

was fairly within the purposes of the Old Colony charter and gave no cause of complaint to a stockholder. It was a slight enlargement of the corporate purposes, not a deviation from them. The State waived the right which it possesses over public service corporations to object to the enlargement of the corporate purpose. The court, indeed, observed this distinction between that case and one like the present, saying, at page 246: "It was urged, as a grave objection against the doctrine above stated, that it puts the minority of the stockholders of a corporation entirely within the control of the Legislature and a majority of the stockholders, and that there would be no limit or restraint placed on the exercise of the power, so that corporations might be diverted to purposes and objects wholly foreign to those for which they were originally established, and stockholders might be made to participate against their will in undertakings which they never contemplated and which they deemed inexpedient or ruinous. . . . No such question arises in the present case, inasmuch as the additional acts, the validity of which is called into controversy by the plaintiff, do not empower the defendants to engage in any undertaking essentially different in kind from that which was embraced in the original acts by which their corporate existence under their present name was authorized and established."

And again, on page 241, the court calls attention to another distinction which exists between that case and the present: "Nor are we called on to determine the effect which such a legislative act would have upon a previously existing executory contract entered into with the corporation; as, for instance, an agreement to subscribe for stock and to become a member of a corporate body, created or to be established for certain distinct and designated objects. No such question arises in the present case. The plaintiff had no executory agreement with the defendants at the time the act in question was passed by the Legislature, or when it was approved and accepted by a legal vote of the corporation."

In *Hale v. Cheshire Railroad*, 161 Mass. 443, it was held that a minority stockholder in the Cheshire railroad which, without his objection, had consolidated with the Fitchburg railroad by authority of the Legislature was bound by the terms of the consolidation and could not have an accounting of his share of the assets of the Cheshire railroad as upon a dissolution. The court said: "Dissenting stockholders are bound by the vote of the majority, acting in good faith and within legislative sanction. It was within the constitutional power of the Legislature to authorize the consolidation. If the plaintiffs had any ground for complaint as to the terms of the plan of consolidation, they should have tried to pre-

vent its going into effect. They virtually concede, however, that the Legislature might sanction a consolidation which should go into effect against their protest. Since the consolidation has gone into effect, they cannot now maintain a claim for better terms to themselves than have been voted."

There is no further discussion of the broad question involved, and, indeed, no point was raised in argument except how much the plaintiff was entitled to receive for his stock. Manifestly, the court could not make a different contract as to that from the one which the corporation, of which he was a member, had made when he conceded that the corporation had a right to make it.

I, therefore, conclude that the Legislature has no power to compel the minority in an existing co-operative bank, which is not a stock corporation, to give up their interest in it for an interest in a consolidated bank in the manner prescribed by this bill. This is not saying, however, that the bill as it stands is unconstitutional. If enacted, it certainly will govern the rights of all members of co-operative banks organized after its passage. Even as to existing banks, it authorizes their consolidation, and, if all the members assent, a consolidation under it will be binding upon all. See *Nugent v. Supervisors*, 19 Wall. 249; *Dickinson v. Consolidated Traction Co.*, 114 Fed. 232, 252.

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Taxation — Foreign Express Company — Interstate Commerce.

St. 1903, c. 437, § 75, imposing an excise tax upon foreign corporations admitted to transact business within this Commonwealth under the provisions of section 58 of such statute, is not applicable to an express company organized under the laws of a foreign State and receiving no goods in Massachusetts for delivery within the Commonwealth, the business transacted by such company being interstate commerce, and as such exempt under the Constitution of the United States, Article I, § 8, from State regulation and control.

APRIL 25, 1904.

HON WILLIAM D. T. TREFRY, *Commissioner of Corporations*.

DEAR SIR:—In your letter of February 4 you desire my opinion upon the question whether an express company organized under the laws of a foreign State and receiving no goods in Massachusetts for delivery at other points within the Commonwealth is liable to a tax under St. 1903, c. 437, § 75.

The business of such company is interstate commerce, and is exempt under the federal constitution from State regulation and control. The State may not attach conditions to the right of

transacting it beyond local regulations made in the proper exercise of the police power. It may not enjoin the corporation from the transaction of its business. See *Western Union Telegraph Company v. Massachusetts*, 125 U. S. 530, 554; *Crutcher v. Kentucky*, 141 U. S. 47; *Opinion of the Attorney-General*, June 5, 1903.

The corporation is liable, however, to be taxed upon all its property, both tangible and intangible, within the jurisdiction of the Commonwealth in return for the protection which its property receives under our laws. While indirectly affecting interstate commerce, taxation is not considered as a burden on its free exercise. *Pittsburgh, etc., Railway Company v. Backus*, 154 U. S. 421; *Adams Express Company v. Ohio*, 165 U. S. 194; *Western Union Telegraph Company v. Texas*, 105 U. S. 460.

The franchise of the corporation is property, and not being derived from the United States is subject to taxation either directly or indirectly. *Atlantic & Pacific Telegraph Company v. Philadelphia*, 190 U. S. 160, 163, and citations. In assessing a tax upon such corporation the State is not restricted to the property physically located within its limits, but since the value of this property is enhanced by the manner of its use in connection with the system of the company's business throughout the country, it may tax the corporation upon a proportion of its total value, including all its franchises, if such proportion is based upon the property within the State. *Adams Express Company v. Ohio*, 165 U. S. 194; *Adams Express Company v. Ohio* (on petition for rehearing), 166 U. S. 185; *Adams Express Company v. Kentucky*, 166 U. S. 171.

Further, the court has held that the form of the tax is not essential. It may be framed as an excise tax upon the privilege of doing business within the State, provided the exaction be not susceptible of exceeding the sum which might be levied directly on its property, and that payment be not made a condition precedent to the right to carry on the business, but that the enforcement of the tax be left to the ordinary means devised for the collection of taxes. The ascertainment of the amount, whatever the tax be called, must be made dependent in fact on the value of the corporation's property situated within the State. *Postal Telegraph Cable Company v. Adams*, 155 U. S. 688; *Maine v. Grand Trunk Railway Company*, 142 U. S. 217; *New York v. Roberts*, 171 U. S. 658.

The tax in question is imposed in the following terms :—

SECTION 75. Every foreign corporation of the classes described in section fifty-eight shall, in each year, at the time of filing its annual certificate of condition, pay to the treasurer and receiver general, for the use

of the commonwealth, an excise tax to be assessed by the tax commissioner of one hundredth of one per cent. of the par value of its authorized capital stock as stated in its annual certificate of condition; but it may deduct from such tax the amount of taxes upon property paid by it to any city or town in the commonwealth during the preceding year, and the amount of such excise tax shall not in any one year exceed the sum of two thousand dollars.

This tax is not founded in any way upon the property of the company situated in Massachusetts. It can only be regarded as an excise tax based upon the fact of doing business in the Commonwealth. *Pratt v. Street Commissioners of Boston*, 139 Mass. 559, 562. Like the tax held invalid in *Leloup v. Mobile*, 127 U. S. 640, which overruled *Osborne v. Mobile*, 16 Wall. 479, it affects all the property of the corporation, wherever situated. While it is far smaller in amount than a valid property tax might be, yet the mode of assessment cannot be sustained if we apply it to this corporation. The Legislature might make the tax any percentage of the capital stock it desired, and in case of ordinary foreign corporations such tax would be valid, subject only to the requirement of the Massachusetts Constitution that it be a reasonable excise. But in taxing a corporation which is engaged wholly in the business of interstate and foreign commerce, the amount of tax must be based upon the company's property subject to the jurisdiction of this Commonwealth.

I therefore advise that the tax imposed by section 75 does not apply to the company in question.

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Corporation — Organization beyond the Limits of the Commonwealth.

Persons associating together under the provisions of St. 1903, c. 437, §§ 9, 10, to form a business corporation, may not legally hold the meeting at which the organization of such corporation is to be effected beyond the jurisdiction of the Commonwealth.

APRIL 28, 1904.

HON. WILLIAM D. TREFRY, *Commissioner of Corporations*.

DEAR SIR:—In answer to your inquiry as to whether or not "the associates who form a corporation under the provisions of chapter 437 of the Acts of 1903, sections 9 and 10, may hold the meeting for organization outside the Commonwealth," I have to advise you that in my opinion such meeting may not be held beyond the limits of the Commonwealth.

The statute above referred to contains, it is true, no express

provision with regard to the place where such first meeting shall be held, but the doctrine that a corporation can have no legal existence beyond the limits of the sovereignty by which it is created is well established. See *Bank of Augusta v. Earle*, 13 Peters, 519. The precise issue presented by your inquiry has been passed upon in many jurisdictions, with the uniform result, that an organization effected beyond the jurisdiction of the State by virtue of whose law the incorporation is authorized has been held to be void and without effect. *Miller v. Ewer*, 27 Maine, 509; *Smith v. Silver Valley Mining Co.*, 64 Maryland, 85; *Camp v. Bryne*, 41 Missouri, 525; and see 1 *Op. Atty-Gen.*, 185.

This conclusion is strengthened by the provisions of St. 1903, c. 437, § 18, that the clerk of a corporation organized thereunder shall be a resident of the Commonwealth; and in section 20, that all meetings of the stockholders shall be held within its limits.

These provisions, although not in themselves decisive of the question submitted, in my judgment tend to show that the Legislature did not contemplate that any of the meetings of a Massachusetts corporation should be held beyond the jurisdiction of the Commonwealth.

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Constitutional Law — Hours of Labor on Public Works.

It would seem, in view of the decision of the Supreme Court of the United States in *Atkin v. Kansas*, 191 U. S. 207, that a proposed bill regulating the hours of labor of workmen employed by the Commonwealth, by the several counties and by certain cities and towns, or by persons contracting with the Commonwealth, the counties and such cities and towns, would not, if enacted, be open to objection upon constitutional grounds.

MAY 6, 1904.

Hon. LOUIS A. FROTHINGHAM, *Speaker of the House of Representatives*.

SIR: — I have the honor to acknowledge the receipt of an order of the Honorable House of Representatives passed on the second day of May, 1904, which is of the tenor following: “*Ordered*, that the Attorney-General be requested to furnish to the House of Representatives his opinion as to the constitutionality of the provisions of House Bill No. 1320, which regulates the hours of labor of workmen employed by the Commonwealth, or by any county, or by certain cities and towns, or by persons contracting with the Commonwealth or with any county or with certain cities and towns,” with which order the bill referred to was transmitted to me. The act referred to is substantially the same in its provisions as that which received my consideration in an opinion under date

of June 15, 1903, and the attention of my predecessor, Attorney-General Knowlton, in his opinion of April 24, 1901.

I have the honor to advise the House of Representatives that in my opinion the bill is constitutional, so far as it applies to the Commonwealth. So far as it applies to municipalities and counties within the Commonwealth, the reasons for holding it to be unconstitutional as in effect taking property without compensation and without due process of law, and as authorizing the appropriation of taxpayers' money for private purposes, have been already set forth in the opinions above referred to.

Since the last opinion of the Attorney-General above cited, a majority of the Supreme Court of the United States, in an opinion written by Mr. Justice Harlan, have decided that an act of the State of Kansas, similar in its provisions to the act now submitted to me, did not conflict with the fourteenth amendment of the federal Constitution. The Chief Justice and Justices Brewer and Peckham dissented from the opinion of the court above cited.

Though the opinion is by a divided court, and though the adjudication of the majority is not necessarily or conclusively binding upon the courts of the Commonwealth, since the decision of that majority was in favor of the constitutionality of the Kansas act, it is, nevertheless, manifest that the decision itself must be of commanding if not controlling influence upon other tribunals. I should, therefore, deem it presumptuous and perhaps an exhibition of undue hardihood if I assumed to reaffirm my former opinion, which is approved by a minority of the justices of the United States Supreme Court.

It is to be noted that since the decision of the Supreme Court of the United States in the Kansas case (*Atkin v. Kansas*, 191 U. S. 207), an elaborate and most carefully considered decision has been made by the Court of Appeals of New York in *Ryan v. the City of New York*, 177 N. Y. 271. The majority of that court hold to the view of the majority of the Supreme Court of the United States in the Kansas case. O'Brien, Bartlett and Vaun, JJ., however, dissent in a long opinion based upon the same reasons which have influenced the Attorneys-General of Massachusetts in their opinions upon the unconstitutionality of the legislation embodied in the act now referred to me.

In view of the opinions of the Supreme Court of the United States and of the appellate court of New York above cited, I must advise the Honorable House of Representatives that there now appears judicial determination of high authority holding that the proposed legislation is within the constitutional limitations.

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Pauper—Disease dangerous to Public Health—Removal to State Hospital—Expenses of Transportation.

The State Board of Charity is authorized by R. L., c. 85, § 14, to direct the local authorities to remove to the State Hospital a State pauper found within the limits of their jurisdiction who is afflicted with the disease of leprosy; and in case such removal is ordered, the expense of transportation must in the first instance be borne by the town, which is entitled to subsequent reimbursement from the Commonwealth "for the excess over thirty miles by the usual route, at a rate not exceeding three cents a mile," in accordance with the provisions of R. L., c. 85, § 9.

MAY 10, 1904.

J. F. LEWIS, M.D., *Superintendent, State Adult Poor.*

DEAR SIR:— You request my opinion upon the following questions relating to the removal to the State Hospital of an unsettled pauper now resident in the town of Harwich, and stated to be infected with a disease which is diagnosed as leprosy.

1. Has the State Board of Charity any authority, under the statutes, to order his removal from the town of Harwich?

2. If the above interrogatory is answered in the affirmative, and the State Board of Charity orders the removal by the authorities of the town of Harwich, should the expenses of such removal be borne by the Commonwealth?

It is my opinion that the State Board of Charity has authority to order the removal of such pauper to the State Hospital.

R. L., c. 85, § 14, provides:—

No city or town officer shall send to the state hospital any person who is infected with smallpox or other disease dangerous to the public health, or, except as provided in section ten, any other sick person whose health would be endangered by removal; but all such persons who are liable to be maintained by the commonwealth shall be supported during their sickness by the city or town in which they are taken sick, and notice of such sickness shall be given in writing to the state board of charity, which may examine the case and, if found expedient, order the removal of the patient; but such notice in the case of sick persons whose health would be endangered by such removal shall be signed by the overseers of the poor or by a person appointed by them by special vote, who shall certify, after personal examination, that in their or his opinion such removal at the time of his application for aid would endanger his health. A city or town officer who knowingly violates the provisions of this section shall be punished by a fine of not less than fifty nor more than one hundred dollars.

The natural interpretation of this statute is, that "all such persons who are liable to be maintained by the commonwealth" includes "any person who is infected with smallpox or other

disease dangerous to the public health" as well as "any other sick person whose health would be endangered by removal." Moreover, the language of the requirement that "such notice in the case of sick persons whose health would be endangered by such removal shall be signed by the overseers of the poor . . . who shall certify . . . that . . . such removal . . . would endanger his health," implies an intent of the Legislature that notice be required in the case of both classes of persons; and if the provision as to notice so applies, the provision as to ordering removals is also applicable.

Such seems to be the meaning of the section as it stands, and whatever may be the effect of Acts of 1902, c. 213, § 1, providing that "notice shall be given to the state board of health in accordance with the provisions of section fifty-two of chapter seventy-five of the Revised Laws," which section is as follows:—

If the board of health of a city or town has had notice of a case of smallpox, diphtheria, scarlet fever or of any other disease dangerous to the public health therein, it shall within twenty-four hours thereafter give notice thereof to the state board of health stating the name and the location of the patient so afflicted, and the secretary thereof shall forthwith transmit a copy of such notice to the state board of charity,—

on the requirement of notice, it certainly does not repeal or revise the provision conferring authority to remove a pauper. Nor do the statutes providing for the care of persons infected with diseases dangerous to the public health (see R. L., c. 75, §§ 35 to 58, inclusive; Acts of 1902, c. 206) contain anything inconsistent with this view of the law.

It is my opinion, in reply to your second inquiry, that the town must bear the expense in the first place, and that the Commonwealth must reimburse such town for the expense of transportation, for the excess over thirty miles by the usual route. R. L., c. 85, § 9, provides:—

Cities and towns may, at their own expense, send to the state hospital, to be maintained at the public charge, all paupers who may fall into distress therein, and who have no settlement within the commonwealth. The city or town shall be reimbursed by the commonwealth, upon bills approved by the state board of charity, for the expense of transportation of each state pauper thus sent, for the excess over thirty miles by the usual route, at a rate not exceeding three cents a mile.

It appears from this statute that the town or city sending a State pauper to the State Hospital is entitled to be reimbursed for a part of the expense incurred. Payment for transportation ex-

penses was authorized in Acts of 1852, c. 275, § 8, in the original statute establishing State almshouses. The first provision for payment applied to all paupers sent to such institutions, and no exception to the operation of the statute authorizing removals was made in the case either of persons whose health would be endangered or of those who were infected with dangerous diseases. Later statutes, beginning in 1855, made these exceptions. See Acts of 1855, c. 445, § 2; Acts of 1865, c. 162; P. S., c. 86, § 25; Acts of 1885, c. 211; R. L., c. 85, § 14; Acts of 1887, c. 440; R. L., c. 85, § 10; Acts of 1903, c. 213. In Acts of 1865, c. 162, and succeeding acts, including R. L., c. 85, § 14, authority is given to the Board of Charity, in either one of these exceptional cases, to "examine the case, and, if found expedient, order the removal of the patient." It is to be noted that the removal is to be "ordered," not made, by the Board, which leads to the conclusion that an order of the Board of Charity merely puts the case, otherwise within the exception, on the same footing as a case not within the exception. This being true, the provision for reimbursement under R. L., c. 85, § 9, applies to a case in which the Board of Charity has ordered the removal. Additional ground for this interpretation appears in the fact that no greater reason appears why a town should bear the expense of transportation of a pauper within the special classes than of one who is not, and that it may fairly be assumed that the statutes regarding the exceptional cases were passed for the protection of the health of pauper and public, rather than with any idea of changing the burden of the expense of transportation.

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Statute of Limitations — Assessment of Compensation for Displacement of Tide Water.

The statute of limitations does not run against the Commonwealth in the matter of the assessment and collection of the tax imposed under R. L., c. 96, § 23, upon the displacement of tide water.

MAY 11, 1904.

HON. WOODWARD EMERY, *Chairman, Board of Harbor and Land Commissioners.*

DEAR SIR:—The Harbor and Land Commissioners ask the opinion of the Attorney-General whether the statute of limitations will run against the Commonwealth in the assessment and collection of a tax for tide-water displacement under R. L., c. 96, § 23.

The statute is as follows:—

SECTION 23. The amount of tide water which is displaced by any structure below high water mark, or by any filling of flats, shall be ascertained by the board, which shall require the persons who cause such displacement to make compensation therefor by excavating, under its direction, between high and low water mark in some part of the same harbor a basin for a quantity of water equal to that displaced; or by paying in lieu of such excavation an amount assessed by said board, not exceeding thirty-seven and one-half cents per cubic yard of water displaced; or by improving the harbor in any other manner satisfactory to the board; and the money shall be paid into the treasury of the commonwealth, and be reserved as a compensation fund for such harbor. The income thereof may be used under the direction of the board for the improvement of the harbor. An assessment for tide water which has been displaced may be recovered in an action of contract in the name of the treasurer and receiver general.

R. L., c. 202, § 2:—

The following actions shall, except as otherwise provided, be commenced only within six years next after the cause of action accrues:

First, Actions of contract founded upon contracts or liabilities, express or implied. . . .

Section 17:—

The limitations of the preceding sections of this chapter . . . shall apply to actions brought by the commonwealth or for its benefit.

When does the Commonwealth's right of action to collect an assessment for a displacement of tide water accrue? Before the assessment of the Harbor and Land Commissioners the Treasurer has no legal means of ascertaining the amount of the Commonwealth's claim and cannot sustain an action. His right, therefore, accrues at the date of the assessment. He must bring suit to collect the assessment within six years after it was levied.

No cause of action accrues to the Commonwealth until the Board of Harbor and Land Commissioners has made the assessment. Is the Board required to assess within six years after the displacement of tide water? The statute does not in terms limit the time.

The situation is somewhat similar to the case of an obligation which becomes fixed only upon the making of a demand. The doctrine has been stated by many courts that a person who is entitled to a payment after a demand which he may make when he chooses is bound to make demand within a reasonable time in order to preserve his rights as against the statute of limitations. In *Shaw v. Silloway*, 145 Mass. 503, it was said that this question had not been considered in Massachusetts.

In *Campbell v. Whoriskey*, 170 Mass. 63, the court said: —

It has sometimes been held, or seemingly assumed, that, even if many years are permitted to elapse without a demand, the statute will not begin to run until the demand is made. . . . Under this doctrine, carried to its extreme limit, a liability to a suit upon a claim might continue for an indefinitely long time. The extreme doctrine in the other direction is that the "cause of action accrues for the purpose of setting the statute in motion as soon as the creditor by his own act, and in spite of the debtor, can make the demand payable." . . . In some of the cases it is held that a demand must be made within a reasonable time, and that a reasonable time will not in any event extend beyond the statute period for bringing such an action. . . . In *Codman v. Rogers*, 10 Pick. 112, 120, Mr. Justice Wilde said: "A demand must be made within a reasonable time; otherwise the claim is considered stale, and no relief will be granted in a court of equity. What is to be considered a reasonable time for this purpose does not appear to be settled by any precise rule. It must depend on circumstances. If no cause for delay can be shown, it would seem reasonable to require the demand to be made within the time limited by the statute for bringing the action. There is the same reason for hastening the demand that there is for hastening the commencement of the action; and in both cases the same presumptions arise from delay." Although he was merely stating the doctrine of laches in a suit in equity, his language has been quoted and referred to in several of the cases above cited as stating the true principle applicable to actions at law. . . .

We are of opinion that the true principle is that the time when the demand must be made depends upon the construction to be put upon the contract in each case. If the contract requires a demand without language referring to the time when the demand is to be made, it is as if the words "within a reasonable time" were found in it. What is a reasonable time is a question of law, to be determined in reference to the nature of the contract and the probable intention of the parties as indicated by it. Where there is nothing to indicate an expectation that a demand is to be made quickly, or that there is to be delay in making it, we are of opinion that the time limited for bringing such an action after the cause of action accrues should ordinarily be treated as the time within which a demand must be made. See *Jameson v. Jameson*, 72 Mo. 640. Such a rule seems fairly to apply the principles and analogies of the statute of limitations to the contract of the parties, and it is in accordance with the weight of authority in this Commonwealth and elsewhere.

This doctrine of the Massachusetts court applies the principle of the statute of limitations by analogy to a case not included in the statute. It is an extension of the equitable doctrine of laches to a situation arising at common law. The question is whether this principle should be applied against the Commonwealth so that the Treasurer's action, brought to recover an assessment, must

fail if a board over which he has no control neglected to levy the assessment within six years after the displacement.

It is a general principle that a right in behalf of the Commonwealth does not fail because of the laches of its officers. *State v. Brewer*, 64 Ala. 287; *Haehlen v. Commonwealth*, 13 Penn. State, 617; *State v. Sponaule*, 45 West Va. 415. Compare *Commonwealth v. Bala, etc., Turnpike Company*, 153 Penn. State, 47.

The statute of limitations itself could not defeat the right of the Commonwealth except that it is expressly applied to actions by the Commonwealth in R. L., c. 202, § 17. The Commonwealth has all the rights and prerogatives of a sovereignty until by statute it yields them up. One of these prerogatives is expressed in the maxim "*Nullum tempus occurrit regi.*"

I am inclined to the view, there being no authority upon either side of the narrow question, that the principle of the statute of limitations should not by analogy be extended to bar this right of the Commonwealth to levy an assessment which is not expressly limited in time. In any event, if the Treasurer desires to bring suit within six years to recover an assessment levied more than six years after a displacement, the question whether he may maintain such action is worthy of a test case.

Very truly yours,

HERBERT PARKER, *Attorney-General.*

Constitutional Law — Obligations of Contract — East Boston Tunnel — Bonds — Tolls.

St. 1897, c. 500, § 17, which authorizes the construction by the Boston Transit Commission of the East Boston Tunnel, and its subsequent lease to the Boston Elevated Railway Company at an annual rental fixed thereby and payable to the city of Boston, by pledging such rental together with the tolls which the city is directed to collect from persons passing through such tunnel, "to meet the principal and interest of the bonds issued to pay for the construction of said tunnel," and expressing such pledge upon the face of the bonds "as one of the terms thereof," creates a valid contract between the city of Boston and the purchasers of such bonds which cannot be impaired by subsequent legislation; and House Bill No. 1192, which abolishes such tolls and instead thereof requires the city of Boston to set aside from the compensation received by it from the Boston Elevated Railway Company under St. 1897, c. 500, § 10, a sum equal to the amount which it would have received from such tolls, to be pledged in like manner to meet the principal and interest of the bonds, for the reason that it varies the terms of such contract by substituting for the source of income pledged to secure the bondholders another and different source of income, is unconstitutional and void.

MAY 16, 1904.

HON. ALBION F. BEMIS, *Chairman, Committee on Metropolitan Affairs.*

DEAR SIR:—The committee on metropolitan affairs has requested my opinion upon the constitutionality of House Bill No. 1192, entitled “An Act relative to the payment of tolls in the East Boston tunnel.”

This bill is intended to amend St. 1897, c. 500, § 17, which authorizes the construction of the East Boston tunnel, and contains the provision that upon the completion of the tunnel the Rapid Transit Commission shall execute a lease thereof in writing to the Boston Elevated Railway Company, for a term expiring twenty-five years from the date of the passage of the act, at an annual rental equal to three-eighths of one per cent. of the gross receipts for each year ending September 30, of all lines owned, leased or operated by the corporation, to be paid to the city of Boston on or before the last day of November in each year, which rental shall be in full compensation for the exclusive use of said tunnel by said corporation, its sub-lessees, successors or assigns. Such other terms and conditions may be incorporated in the lease as may be agreed upon by the commission and the corporation, or, in case of disagreement, as shall be determined by the Board of Railroad Commissioners.

The material part of the section is as follows:—

Said city shall collect from each person passing through said tunnel in either direction a toll of one cent: *provided, however*, that if in any year ending on the thirtieth day of September the receipts from such tolls, together with the rental above-provided for, amount to a sum so in excess of the interest and sinking fund requirements of said bonds for that year that the board of railroad commissioners is of opinion that the toll may be reduced, said board shall on petition of ten citizens of said city establish such reduced toll for the period of one year from the first day of January next ensuing, as will in its opinion yield an amount sufficient to meet, with said rental, said interest and sinking fund requirements for that year; or said board may altogether discontinue such toll when it is of opinion that such rental alone is sufficient to meet said requirements; but any such reduction shall be carried into effect by a provision for the sale of tickets, and the cash fare shall continue to be one cent. The whole amount of such tolls and of said rentals is hereby pledged to meet the principal and interest of the bonds issued to pay for the construction of said tunnel or tunnels, and this pledge shall be expressed on the face of such bonds as one of the terms thereof; *provided, however*, that after such tolls have been discontinued if said rentals shall for any year ending on the thirtieth day of September yield an amount more than sufficient to meet the interest and sinking fund requirements of said bonds for such year such excess over said requirements shall be regarded as general revenue of said city. In

case in any year the rentals and tolls above-provided for shall not yield a sufficient amount to meet said interest and sinking fund requirements the compensation received by said city under section ten of this act shall be applied so far as may be necessary toward meeting such requirements. Said corporation shall be the agent of said city to collect such tolls under such arrangements as shall be agreed upon by said city and said corporation, or in case of disagreement, as shall be determined by the board of railroad commissioners.

House Bill No. 1192 amends this section by striking out the provision above quoted with regard to the collection by the city of a toll of one cent, to be collected from each person passing through the tunnel in either direction, and enacting in place thereof the following:—

Said city shall set aside from the compensation received by said city under section ten of this act a toll of one cent for each person passing through said tunnel in either direction.

Section 10, herein referred to, provides that the Boston Elevated Railway Company may establish a maximum toll or fare of five cents, which sum shall not be reduced by the Legislature during the period of twenty-five years from and after the passage of this act, and further provides for a payment as compensation for the privileges therein granted and for the use and occupation of the public streets, squares and places by the lines of elevated and surface railroad owned, leased and operated by the corporation of an annual sum, the amount of which is to be determined by the amount of the annual dividend paid in each year, as therein provided. “The above sum shall be paid into the treasury of the Commonwealth and distributed among the different cities and towns in proportion to the mileage of elevated and surface main track reckoned as single track which is owned, leased and operated by said corporation and located therein.”

The question submitted is whether or not the change made by House Bill No. 1192 is unconstitutional as impairing obligations of contract.

A consideration of the statutes above referred to in my opinion clearly shows that no obligation of contract subsisting between the Commonwealth and the Boston Elevated Railway Company is impaired or affected by the proposed amendment, and the bill, if unconstitutional, must be so by reason of the existence of a contract between the city and the purchasers of the bonds referred to in sections 17 and 18, which is impaired by its provisions.

The first question to be determined, therefore, is whether or not such a contract exists. Section 17 provides that the city shall

collect a toll of one cent from each person passing through the tunnel in either direction, and for an annual rental of three-eighths of one per cent. of the gross annual earnings of the corporation, the amount received from both these sources being *pledged* to meet the principal and interest of bonds issued to pay for the work of constructing such tunnel. This pledge is expressed upon the face, and forms one of the terms of each of such bonds, and, in my opinion, constitutes a valid contract between the city and the bondholders, the obligations of which cannot be impaired by any subsequent legislation.

The second question to be considered is whether the change proposed to be made by House Bill No. 1192 is an impairment of the obligation created by this contract.

It is to be observed that the pledge above referred to is obviously designed to afford security for the full and timely payment of the principal and interest of the bonds issued to pay for the work of constructing the tunnel by specifically devoting a certain income to that purpose. If the income as assigned exceeds the amount necessary, the surplus may be treated as the general revenue of the city of Boston. If, on the other hand, the specified sources are not sufficient to provide the necessary sum, a third source of income is made available, namely, the income received by the city as compensation for the use of the public streets, ways and places, under the provisions of section 10. If, after experiment, it appears to the Board of Railroad Commissioners that the tolls and rental exceed the amount required for principal and interest of the bonds issued by the city, they may reduce the toll by making provision for the sale of tickets, though cash fares must still be paid in the same amount by passengers; and if the rental alone becomes sufficient for the specified purposes, the tolls may be discontinued.

House Bill No. 1192 in effect abolishes one source of income, viz., the tolls, and provides that the amount which would have been furnished to the city from such tolls shall be payable out of the compensation received by the city under section 10. This may or may not diminish or materially affect the sources of income available as security for the bonds issued, since the amount received as compensation under section 10 by the city may or may not be sufficient to provide for all deficits which may exist from year to year in the rental, the significant effect of the provision being to abolish the tolls entirely. This, in my judgment, constitutes a material interference with and impairment of the obligation of contract between the city and the bondholders created by section 17. If the effect of the proposed legislation were merely to

substitute one security for another of equal value, it would be, if compulsory, objectionable on constitutional grounds; if the compulsory substitution be to provide a security of less value than the original, or one of a lower grade, it certainly conflicts with constitutional requirements.

It is forcibly argued by those in favor of House Bill No. 1192 that the change suggested is merely one of bookkeeping, transferring the liability to pay the amount due as tolls from the general public to the city of Boston, and designating the sum from which it is to be drawn, and that as regards the bondholders, the contract is not in any respect affected.

It appears, however, upon careful consideration, that the change is more material than the petitioners admit.

Section 17 provides a scheme for meeting the interest and sinking fund requirements of the bonds issued which involves the setting aside of a certain fixed and definite income as it accrues, and dedicating and appropriating the same directly and in specie, to meet the bond obligations; and further provides that the tolls paid by the public shall be discontinued upon certain contingencies set forth by the Board of Railroad Commissioners. This scheme and these conditions may well have been, and in my opinion were, considerations of weight with those intending to purchase bonds, when coupled with the distinct pledge that the receipts from such sources should be set aside for meeting the obligations of the bonds, and for this reason the conditions prescribed are material to the contract and formed a consideration for the purchase of the bonds.

The adjudicated cases upon this subject seem clearly to recognize the principle that the power of taxation as it existed at the time when the contract was made becomes a part of the contract, and, if necessary, can be availed of by the creditor under such contract without regard to subsequent legislation. *Von Hoffman v. City of Quincy*, 4 Wall. 535; *Ralls County Court v. United States*, 105 U. S. 733, 738; *Mobile v. Watson*, 116 U. S. 289. In these cases the power to tax was the general power of taxation vested in a municipality, and the courts, in substance, held that if under subsequent changes in the method of taxation and in the classes of property to be taxed the income derived from such taxation was insufficient to meet the requirements of the contract, the obligation of contract was impaired to the extent of the deficiency thus created.

Where a special tax levy or a special fund raised by taxation is made security for the payment of contract obligations, the creditor may insist upon payment from that source, notwithstanding the repeal of the law by which it was established. *Seibert v. Lewis*,

122 U. S. 284, 290; *Nelson v. St. Martin's Parish*, 11 U. S. 716. A contract of this character is discussed in *Louisiana v. Pillsbury*, 105 U. S. 278, at pp. 287, 288:—

These provisions, until the bonds were accepted, were in the nature of proposals to the creditors of the old city, of the municipalities and of Lafayette. The State in effect said to them: the city will give these bonds, running for the period designated, and drawing interest, in exchange for your demands; and as security for the payment of interest, and the gradual redemption of the principal, the city shall annually, in January, levy a special tax for that purpose to the amount of \$650,000. The provisions were designed to give value to the proposed bonds in the market of the country, and necessarily operated as an inducement to the creditors to take them. When the bonds were issued and taken by the creditors, a contract was consummated between them and the city as fully as if all the provisions had been embodied as express stipulations in the most formal instrument signed by the parties. On the one hand, the creditors surrendered their debts against the former municipalities; and, on the other hand, in consideration of the surrender, the city gave to them its bonds, which carried the pledge of an annual tax of a specified amount for the payment of the interest on them, and ultimately of the principal. The annual tax was the security offered to the creditors; and it could not be afterwards severed from the contract without violating its stipulations, any more than a mortgage executed as security for a note given for a loan could be subsequently repudiated as forming no part of the transaction. Nearly all legislative contracts are made in a similar way. The law authorizes certain bonds to be issued, or certain work to be done upon specified conditions. When these are accepted, a contract is entered into imposing the duties and creating the liabilities of the most carefully drawn instrument embodying the provisions. *Von Hoffman v. City of Quincy*, 4 Wall. 535; *Hartman v. Greenhow*, 102 U. S. 672; *People v. Bond*, 10 Cal. 563; *Brooklyn Park Commissioners v. Armstrong*, 45 N. Y. 234.

The case now under consideration appears to be identical in principle with those decisions which deal with a specific source of income appropriated to the discharge of the obligation incurred under the contract; and there are a number of decisions which deal with facts substantially like those under discussion.

In *Liquidators v. Municipality*, 6 La. Ann. 21, an act of Legislature was passed in the State of Louisiana to provide for the payment of the debts of a municipal corporation, which authorized the creation of a sinking fund which was to be deposited and to be applied as specified in the act. In cases where creditors, acting thereunder, had surrendered the evidences of their debts and received new bonds, for the payment of which the fund was pledged, it was held not competent for a subsequent Legislature, in providing for the payment of the corporate debts, to give a dif-

ferent destination to the sinking fund by changing the depository of the fund, such change being held to be an impairment of the obligation of the contract. In *Fuzende v. City of Houston*, 34 Fed. Rep. 95, where a municipal corporation, under an ordinance authorized by its charter, issued bonds to provide for erecting a market-house, and agreed in the bonds that the revenue from the market should be devoted to the payment of the interest on the bonds and to the formation of a sinking fund for their redemption, it was held that the city could make no other disposition of such revenue. So in *Brooklyn Park Commissioners v. Armstrong*, 45 N.Y. 234, where bonds were issued by a municipality to raise funds for the payment of lands for a park, and the lands were specifically pledged for such payment, it was held that a subsequent act of Legislature authorizing a sale of such lands, free of trust and of existing liens under the original act, could not be sustained, such act being an impairment of the obligation of contract. See also *Dillingham v. Hook*, 32 Kan. 185. In *City of St. Louis v. Shields*, 52 Mo. 351, the facts were substantially like those now before me. The court held that, upon the repeal of a statute which authorized the city of St. Louis to raise money, by the issue of bonds, for harbor improvements and the construction of wharves, and established a wharf tax upon all real estate in such city, which, together with the revenue derived from the wharves after completion, was pledged to meet the payment of interest and to provide for the establishment of a sinking fund for the redemption of the bonds, no contractual relation existed as between the city and the State, and no obligation of contract was impaired by such repeal. It is to be observed, however, that the bondholders were not before the court, and it is intimated in the opinion that were "the bondholders asking for a protection of their rights and showing that the collection of their debts was impaired, a different case would be presented;" and in *Gilman v. Sheboygan*, 2 Black (U. S.), 510, to the same effect the bondholders were not before the court.

I am therefore of opinion that in so far as House Bill No. 1192 is designed to change the conditions and scheme of payment, and the obligations to secure the same under which the bonds issued to pay for the construction of the East Boston tunnel were sold, and which formed a consideration in such sale, it is unconstitutional.

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Banking — Receipt of Money on Deposit — Certificates of Deposit — Business Corporation.

The receipt of money on deposit at interest and the issuance of certificates of deposit therefor is "banking" within the meaning of R. L., c. 115, and such business is forbidden to a corporation organized under the provision of St. 1903, c. 437, relating to business corporation.

JUNE 11, 1904.

WARREN E. LOCKE, Esq., *Chairman, Board of Commissioners of Savings Banks.*

DEAR SIR: — Your letter of January 20 submits for my consideration certain circulars and other advertisements issued by the Equitable Banking Company of Boston, soliciting deposits of money for periods of one, two or three years, and offering to pay interest thereon at six per cent., together with an extract from the charter of such corporation, and you inquire whether such charter "permits of their advertising for deposits and issuing certificates of deposits after the manner of a national bank." Inasmuch, however, as the Board of Commissioners of Savings Banks, as such, are not concerned with, or authorized to inquire as to, the charter powers of the Equitable Banking Company, unless some question presents itself which relates to the business of banking, I conceive your inquiry to be directed rather to the question whether receiving money on deposit at interest, and issuing certificates of deposit, is in fact conducting a banking business, and, if so, whether such business is permitted by the charter of the company.

The Equitable Banking Company is a Massachusetts corporation incorporated under the provisions of St. 1903, c. 437, known as the "Business Corporation Law." Section 1 of this chapter provides that it "shall not apply to corporations organized under general or special laws of this Commonwealth for the purpose of carrying on within the Commonwealth the business of a bank, savings bank, co-operative bank, trust company, surety or indemnity company, safe deposit company," etc. The business which the corporation is authorized by its charter to carry on is as follows: —

To carry on a general mercantile, mining and brokerage business, and also to carry on the business of buying and selling wages, salaries, contracts, accounts, notes, drafts and other choses in action, and to purchase the same at a price consistent with the security offered. Also to raise money either by the issue of bonds or on a mortgage, to organize corporations to buy or acquire other corporations, syndicates or business. Also the acquiring of any property, real or personal, such as mining,

mining rights, land, buildings, machinery, tools, patents, patent rights, leases or licenses essential or convenient for such business, and generally to do any and all things necessary or incident thereto, but not to carry on any business within the Commonwealth prohibited by the laws of Massachusetts under the act relating to business corporations.

Since St. 1903, c. 437, expressly exempts from the operations of its provisions corporations organized for the purpose of carrying on the business of banking, such business being regulated by R. L., c. 115, I am of opinion that the Equitable Banking Company is not authorized to carry on a banking business in this Commonwealth, and if the receipt of money on deposit, and the issuance of certificates of deposit and the payment of interest on the money so deposited is banking, the corporation has exceeded its charter powers.

A bank is defined to be an institution, usually incorporated, with power to issue promissory notes intended to circulate as money, or to receive the money of others on general deposit, to form a joint fund, to be used by the institution for its own benefit, for one or more of the purposes of making temporary loans and discounts, of dealing in notes, foreign and domestic bills of exchange, coin, bullion, credits and the remission of money, with the additional privilege of receiving special deposits and making collections for the holders of negotiable paper, if the institution sees fit to engage in such business. "Practically, a bank is a place where deposits are received and paid out on checks, and money is loaned on security." *Morse on "Banks and Banking,"* 4th ed., par. 2. The receipt of money on deposit and the creation thereby of a fund which may be used by the institution for its own benefit, is, therefore, an important function of the business of banking.

A certificate of deposit is "the written acknowledgment of the bank that it has received from a certain person a certain sum on deposit." *Morse on "Banks and Banking,"* 4th ed., par. 297. Such certificates differ from promissory notes, not only because the certificate must be returned or tendered before payment becomes due, but also because it is in itself a declaration that a certain fund has been deposited which is payable to the depositor, or his order, on the return of the certificate; and such certificates are issued "with the design that they shall be used as money and taken with as much confidence as the bills of the bank." *Shute v. Pacific National Bank*, 136 Mass. 487.

In view of the nature of such certificates and the use to which they are intended to be put, I am of opinion that the authority to issue them must be held to be strictly limited to banks or other

similar corporations organized under and regulated by the statutes applicable to the business of banking, and that a corporation organized under the provisions of St. 1903, c. 437, as a business corporation, has no authority to receive money on deposit and to issue certificates therefor.

Very truly yours,

HERBERT PARKER, *Attorney-General.*

Constitutional Law — Veto Power of Executive — Legislature — Passage of Bill or Resolve over Veto — Two-thirds of Branch originating Measure.

The Constitution of Massachusetts, Part II., chapter I., article II., by providing that where the veto power of the Executive is exercised, the bill or resolve, with his objection thereto in writing, shall be returned to that branch of the Legislature in which such bill or resolve originated, two-thirds of which branch may upon reconsideration agree to pass the same, and if approved in the other branch by two-thirds of the members present, it shall have the force of a law, — imposes upon that branch of the Legislature in which a particular act originates a different relation to and responsibility for such act from that attaching to the other branch, and requires that “two-thirds of the said Senate or House of Representatives,” whichever may have originated the measure, should be two-thirds of the full membership thereof, and not merely two-thirds of the members present, as in the case of the remaining branch.

It follows that St. 1904, c. 458, which originated in the House of Representatives and which was therein passed over the veto of the Executive by a two-thirds vote of the members then present but not by a two-thirds vote of its entire membership, was not passed over such veto in accordance with the provision of the Constitution (Part II., chapter I., article II.), and is null and void. The Treasurer has no authority, therefore, to issue the bonds authorized and required by the terms of such statute.

JULY 11, 1904.

HON. EDWARD S. BRADFORD, *Treasurer and Receiver-General.*

SIR: — I have the honor to acknowledge your communication of June 15, in which you ask my opinion as to the “constitutionality and legality” of chapter 458 of the Acts of 1904, which communication has had my attention and study since its receipt.

I am advised that the act in question originated in the House of Representatives, and I am informed that after the said act had been returned to that body by His Excellency the Governor, without his approval and accompanied by his reasons therefor, it appears by the journal of the House that two-thirds of its entire membership did not vote affirmatively to pass the said act notwithstanding the Executive veto. I am further informed that

two-thirds of the members of the House present and voting did, however, affirmatively vote to pass the act notwithstanding the veto.

The question you raise is one of very serious importance. I take it to comprise an inquiry as to the constitutionality of the law, assuming it to have been duly enacted, as well as the question whether, as matter of law, it has been enacted at all in view of the Executive veto.

If the statute has been lawfully enacted, I am of opinion that I should not be justified in declaring it to be unconstitutional. The Supreme Judicial Court must determine that question if it be raised. I therefore confine my attention, investigation and discussion to the more specific inquiry and the more important, in view of my duty, whether it was in law enacted in view of the facts which I accept as above stated.

The constitutional provisions upon which this question must be determined are to be found in chapter I., article II., of Part the Second of the Constitution of this Commonwealth, the material part of which is to be found in the paragraphs defining the veto power of the Executive, the language being : —

But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto in writing, to the senate or house of representatives, in whichsoever the same shall have originated; who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve. But if after such reconsideration, two-thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of a law.

There is an obvious difference in the phraseology defining the reconsideration and re-enactment of a law, notwithstanding the Executive veto, with regard to the two branches of the Legislature, the one in which the act originated and the other whose action supplements that of the branch in which the law had its origin; in the case of the branch originally acting it being required that there must be an affirmative vote of two-thirds of the said Senate or House of Representatives, and in the other case, the affirmative vote required being two-thirds of the members present. Whether the omission is the one requirement of the word "present" and its appearance in the other be intentional or accidental, suggests the first line of inquiry which my investigation pursues.

The presumption must be that the terms and provisions of the Constitution find place through the intent of its framers rather than through accident or inattention. I must therefore conclude that the difference of phraseology in the two sections above cited was intentional, and my inquiry is, in consequence, confined to the question whether this difference of phrase leads to a necessary difference of vote in the two houses required to enact a law, notwithstanding the veto of the governor.

That the attention of the framers of the Constitution was directed especially to this section is apparent from the report of the constitutional convention of 1779–80. The report of that convention, which is very incomplete and unsatisfactory, states that a motion was made to insert the words “being equal in numbers to those present at the passing thereof.” The report does not state at what point in the section these words were to be inserted. The convention, however, declared in favor of the paragraph in its present form. See *Journal of the Convention, 1779–80, Boston, 1832*.

The records of the constitutional convention of 1853 present an interesting and suggestive discussion of the question before me though it furnishes no decisive authority. *Debates in Massachusetts Convention, 1853*, volume III., page 662 *et seq.* A committee of the convention reported a revision of article IV., by which revision the word “present” was inserted and made applicable to the vote required for enactment after a veto, by the body in which the act originated. It was contended by Mr. Lord of Salem that the insertion of the word effected a palpable alteration of the Constitution which was beyond the authority of the reporting committee. Upon a question of order, whether the report, by reason of the change of phrase, did transcend the authority of the committee, the presiding officer of the convention ruled that it did not, since, in the opinion of the chair, “the insertion of the word ‘present’ does not change the substance of the article; the experience of the chair has been invariably that a question has been considered settled on receiving the assent of two-thirds of the members present and voting thereon. The chair does not therefore regard it as changing the substance of the article.” Mr. Lord earnestly and forcibly argued that the inserted word “present” did change the meaning of the Constitution, and he was opposed to such insertion both because it was beyond the authority and province of the committee as well as upon the broader ground that it diminished the vote required to override an Executive veto. He thereupon moved that the report of the committee be amended by striking out the word “present.” The question was taken upon this motion, and

upon a division the vote stood, ayes 63, noes 162, and Mr. Lord's amendment was rejected.

The Constitution, with article IV. containing the inserted word "present," was adopted by the convention, but the new draft of the Constitution was rejected by popular vote. It thus appears that an attempt to amend the Constitution by the insertion of a word claimed by some to be only a change of phrase without change of meaning, and by others to be a change of substance, failed of accomplishment through the disapproval of the people, and so the attempt to remove the doubt of construction, if it were only such, failed; and it is also obvious that the express provision requiring only a two-thirds vote of members present for the passage of an act over the Governor's veto, if such were a change in the constitutional requirement, was not ratified by the popular assent.

Article XXXIII. of Amendments to the Constitution, adopted Nov. 3, 1891, is as follows:—

A majority of the members of each branch of the General Court shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day, and compel the attendance of absent members. All the provisions of the existing Constitution inconsistent with the provisions herein contained are hereby annulled.

This amendment does not, in my opinion, affect the question before me or aid in its determination. None of the pre-existing provisions of the Constitution affecting this question are inconsistent with, or in consequence annulled by, those of this amendment, which merely defines what shall constitute a quorum for the transaction of business in either branch of the General Court, and was evidently directed to and in amendment of article IX. of chapter I. of section II. and article IX. of chapter I. of section III. of the Constitution.

A constitutional requirement fixing the minimum vote necessary for affirmative action upon a specific proposition or question is not, in my opinion, affected by a provision designating the limit of attendance without which ordinary business cannot be transacted. Unless an amendment revises the whole subject embraced by the previous constitutional provision the latter cannot be held to have been repealed by implication, especially as it may be given, as in this case, full effect without conflict or inconsistency with the subsequent amendment. See *Harnden v. Gould*, 126 Mass. 413.

I have examined the reported rulings of presiding officers of the House and Senate upon the construction of the constitutional provision under consideration, and it appears to have been held

that in the branch first taking action a vote of two-thirds of the members present is sufficient to pass a bill notwithstanding a veto. Clifford, S., 1862, page 625; Bullock, H., 1862, page 586. But such decisions, not being upon the construction of the rules of the Senate or House but upon the organic law superior to and controlling all legislative action, can neither be final, nor, indeed, be held to carry any authority beyond that of the learning and sound wisdom of the eminent gentlemen who declared them.

The dissenting opinion of Mr. Justice Bradley, in *County of Cass v. Johnston*, 95 U. S. 370, most forcefully presents reasons bearing high intrinsic authority of a great jurist, to the effect that in the absence of qualifying or limiting words a constitutional requirement of a specific vote of a given body means such vote of the entire body, not such proportion of the members thereof as may at any assumed moment participate in the vote.

The opinion of Mr. Justice Bradley appears to me consonant with the true principle governing this inquiry, and would by itself justify grave doubt whether, in the case before me, a two-thirds vote of members present in the house of origin of the bill satisfied the requirement of the Constitution, even if the phrase of requirement were identical as applied to action in both houses, and this view is directly sustained in the case of *State v. Gould*, 31 Minn. 189.

There are authorities, however, which hold that the word "house," where context, subject or condition suggests or induces such conclusion, is to be construed as meaning a quorum of such house. *Southworth v. Palmyra & Jackson Railroad Company*, 2 Mich. 287; *Green v. Weller*, 32 Miss. 650. The reason upon which these decisions rest is absent from the case before us, since it is here apparent that peculiar responsibility and gravity attach to that vote which is to nullify an Executive veto, and it is therefore to be distinguished from routine action incident to the mere transaction of ordinary legislative business. Again, the context under consideration before us exhibiting a difference in phrase forbids that generalization of reason which carried the opinion of the court in the cases above cited. In the construction of statutes, and much more so in that of the Constitution, it is the safe method to give effect to the particular words. When in the same sentence different words are used, the courts of law will presume that they were used in order to express different ideas. *Parkinson v. State*, 14 Md. 184, 197.

Where there is such difference of phrase as that plainly before us, that difference must be held to have an intentional significance which I certainly cannot and shall not assume to ignore by any

rule of construction which holds that the word "present" in the second clause and absent in the first is mere heedless surplusage, the result of a want of consideration or inattention on the part of the framers of the Constitution, or the result of an incapacity that must await the charitable constructive assistance of commentators of a later day. I am of opinion that our Constitution took its vigor at the moment of its adoption and in the very phrase of its expression, and that no one of its provisions can be discarded, or that phrases of different form and import are yet to be held as of the same intent by any authority, save that of the decision of that tribunal to which its construction was by its own precept committed, the Supreme Judicial Court.

I cannot doubt that the courts will recognize a distinction in the phrases about which our inquiry centres, and unless it shall be held that these apparent distinctions are, nevertheless, to be construed as of the same effect and tenor, it must follow that an act can be passed, notwithstanding the Executive veto, only in the event that two-thirds of the entire membership of the house in which the act originated shall vote to pass the same, notwithstanding the veto; as it must certainly be held that the act may be passed, notwithstanding such veto, by the other house if two-thirds of the members present so vote.

I think, in view of such obvious difference in phraseology and apparently of such significance, it must be left to the courts of competent jurisdiction alone to declare that the framers of the Constitution nevertheless intended that no distinction should exist. A careful search of the reports of judicial construction has failed to disclose to me any such declaration; indeed, I have been able to discover no adjudication directly bearing upon this issue. I am therefore left to pursue such lines of reasoning as appear to me to be sound and conclusive, realizing that however they may so appear to me, they must still fail to carry that authority which can alone settle and determine the important question which your inquiry presents. But since you have sought, and may feel that you must govern your official action by, such opinion as I can render to you, I deem it my duty to suggest some of the reasons which guide me to the conclusion which I submit.

Assuming that full weight must be given to each and all of the provisions of the Constitution, and assuming that each is there inserted for a purpose, for every clause and word even of a statute shall be presumed to have some force and effect (see *Opinion of the Justices*, 22 Pick. 573; *Browne v. Turner*, 174 Mass. 150, 160), I conclude that the framers of the Constitution intended that that branch of the Legislature in which the act in question

originated should hold a different relation and responsibility to it than that attaching to the action of the other branch, and it well may be as it indeed appears, that the Constitution intended that an act could be passed over the Executive veto only in the event that that house which was responsible for its original adoption had, on reconsideration after an Executive veto, passed it by a vote of two-thirds of its entire membership, and that such enactment, notwithstanding an Executive veto, should not depend upon the hazard of an attendance at the time of such final action measured by a mere quorum of the body. This line of reasoning of course presupposes, as I do, that the constitutional intent was that passage, notwithstanding a veto, should require a larger vote than that dependent upon a mere two-thirds of a quorum.

Taking up for a moment an analysis of the provisions relating to action by that house other than the one in which the act originated, I proceed to consider whether its requirements can be so construed as to be equivalent to or of like effect with those relating to the house of the origin of the bill, and it seems to me manifest that the vote required in the former case is obviously less than that required in the latter; nor can the two provisions be made, by any process of reasoning apparent to me, to be of the same significance.

Whether there was or was not good or sound reason for the apparent difference of requirement set forth in the Constitution is certainly beyond the legitimate field of my inquiry. If such a distinction appears and is held to be conclusive of the intent of the Constitution, it must and will be recognized and enforced by the courts, resulting, if my line of reasoning be accurate, in judicial declaration that unless two-thirds of the entire membership of the house of the origin of the bill vote affirmatively to pass it, notwithstanding a veto, there has been no enactment in law, and the supposed statute is in consequence a mere nullity.

Entertaining the opinion which I do and which I have herein stated, I must declare to you that in my opinion the act to which you call my attention is without validity, and is in law as if it had never appeared upon our statute book. In reaching this conclusion, I am not unmindful that a law duly enacted should be presumed to be constitutional until the courts of competent jurisdiction have finally otherwise decided, but it is to be observed that the question submitted to me and by me considered is not whether there was constitutional authority for this enactment vested in the Legislature, but whether the Legislature has acted within the limitations and according to the authority of the Constitution in the assumed passage of the act; in other words, I do not deal with the

construction of the act itself with relation to constitutional questions, but I confine myself wholly to an inquiry as to the construction of the Constitution itself upon which the existence rather than the validity of the act is to be determined.

I therefore am constrained to advise you, in conclusion, that there is grave doubt whether you have any official authority or power to issue instruments which, upon their face and in form, shall declare an obligation of the Commonwealth. The issuance of bonds in tenor and form binding upon the State must have, in their inception, clear, unquestioned and unassailable authority. Upon the state of facts which I have assumed, and upon that construction of the Constitution to which my own judgment leads me, I am required to say that such authority does not, in my opinion, exist.*

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Insurance — Authority of Foreign Fire Insurance Corporation to do Business within the Commonwealth — Revocation — Reinsurance.

When it appears that a foreign fire insurance corporation admitted to do business in this Commonwealth has reinsured risks on Massachusetts property in fire insurance companies not so admitted, without filing the affidavit required by R. L., c. 118, § 83, to the effect that the amount of insurance adequate to protect the property could not be obtained in companies regularly admitted to do business in Massachusetts, the Insurance Commissioner may, under R. L., c. 118, § 20, revoke the authority of the corporation to carry on business here, notwithstanding that the contract of reinsurance was made and was to be performed beyond the limits of the Commonwealth.

JULY 21, 1904.

HON. FREDERICK L. CUTTING, *Insurance Commissioner*.

DEAR SIR: — In your letter of July 1 you desire my opinion whether, upon the facts disclosed in the examination by your department of a foreign fire insurance corporation, you have power to revoke the company's authority to transact business in Massachusetts.

The corporation, which was admitted to Massachusetts in 1891, has, at its general offices in the city of New York, reinsured risks on Massachusetts property in companies which have not been authorized to do business in Massachusetts, no affidavit having been filed, in accordance with R. L., c. 118, § 83, that the amount

* For a very full and instructive discussion of the origin and history of the veto power, see opinion of Nott, J., in *United States v. Weil et al.*, 29 C. Cls. R. 523.

of insurance necessary to protect the property could not be procured in admitted companies. In each case the contract of reinsurance was made and was to be performed in New York city.

R. L., c. 118, § 20, provides in part as follows:—

If a company directly or indirectly reinsures a risk taken by it on any property located in this commonwealth in a company not duly authorized to transact business herein, . . . the insurance commissioner may revoke its authority to transact business in this commonwealth.

This statute does not limit such action by the Insurance Commissioner to acts done by the company within this Commonwealth; its intention is to prevent, so far as it may, the insurance of Massachusetts property by companies not under the control or supervision of this Commonwealth. It purports to authorize the Insurance Commissioner to revoke the company's authority, although the ground of revocation is an act done outside this jurisdiction. The question is whether this statute thus construed is constitutional.

While the Legislature has no right to require an owner of property situated in Massachusetts to insure it only in authorized companies (*Allgeyer v. Louisiana*, 165 U. S. 578), the right of the Legislature to dictate terms upon which a foreign company may reinsure its risks as a condition of remaining here rests upon a different and valid foundation. A person owning property here has a right to insure it in such company as he chooses, provided the forbidden act of insurance takes place outside the jurisdiction. Since the contract of insurance, if made outside the jurisdiction, for the sake of the owner is not to be interfered with, the other party to the contract, the insurance company, is sheltered by the owner's privilege, but in case of reinsurance, neither the insuring company nor the reinsuring company, when not authorized to do business here, is guaranteed by the Constitution the right to make that contract. The owner of the property and his rights are not to be considered, since the contract of reinsurance is entirely between the two foreign companies, there being no relation between the owner and the reinsuring company.

The State may prohibit foreign insurance companies entirely from doing business within its limits. It may then impose such conditions as it pleases upon the doing of business, and upon failure to perform the conditions it may refuse authority to do business or revoke an authority once given. *Paul v. Virginia*, 8 Wall. 168; *Ducat v. Chicago*, 10 Wall. 410; *Hooper v. California*, 155 U. S. 648; *Manchester Fire Insurance Company v. Herriott*, 91 Fed. 711.

In *Waters-Pierce Oil Company v. Texas*, 177 U. S. 28, a Texas

statute provided that every foreign corporation violating its provisions should forfeit its right to do business in Texas. The Attorney-General proceeded against a foreign corporation which was authorized to do business in the State for forfeiture of that right. In the United States Supreme Court the corporation contended that the statute limited its right to make contracts and took away its property without due process of law. The court sustained the forfeiture which had been declared by the State court, observing: "What right of contracting has it in the State of Texas? This is the only inquiry, and it cannot find an answer in the rights of natural persons." See also *Blake v. McClung*, 172 U. S. 239; *Orient Insurance Company v. Dags*, 172 U. S. 557.

It is no objection to the exercise by the Insurance Commissioner of the power given him by this statute that his reason for revoking the authority of the company is that the company has done an act outside the jurisdiction which the Commonwealth cannot effectually prohibit by penal laws, having no extra-territorial effect. Since insurance is not interstate commerce, the State may deprive a foreign company of the right to do business within its limits for any reason that it deems proper.

In *Doyle v. Continental Insurance Company*, 94 U. S. 535, the Supreme Court of the United States held that an injunction to restrain the Insurance Commissioner from revoking the license of a foreign insurance company must be denied. In that case the license was revoked for the reason that the company removed a case from the State to the federal court, in violation of a State statute providing that in case of such removal its license should be cancelled. The company, as a condition of its license, had been required to agree not to remove any case. Though the agreement was void (*Insurance Company v. Morse*, 20 Wall. 445), and a similar statute applying to a corporation or individual having a right to do business in the State would be unconstitutional as denying a right guaranteed by the federal Constitution (see *Barron v. Burnside*, 121 U. S. 186, 199), a majority of the court held that since a foreign insurance company has no constitutional right to do business within the State, it was justifiable to give the corporation the option either to stay out or to deny itself a federal right.

I therefore conclude that the statute authorizes you to revoke the license of the foreign insurance company for the reasons stated, and that the statute is valid though indirectly prohibiting acts done outside the State, since under it the corporation had an option to stay out of the State or comply with the statute.

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Insurance — Fraternal Beneficiary Association — Foreign Corporation — Admission to Commonwealth — Mortuary Assessment Rates.

A foreign fraternal beneficiary association which was not doing business in the Commonwealth on May 23, 1901, and which does not at the time of its application have in force mortuary assessment rates not lower than those indicated as necessary by the National Fraternal Congress Mortality Tables, as required by R. L., c. 119, § 13, may not be admitted to carry on business within this Commonwealth.

JULY 22, 1904.

HON. FREDERICK L. CUTTING, *Insurance Commissioner.*

DEAR SIR: — In your letter of April 27, you request my opinion whether the Supreme Lodge, Ancient Order of United Workmen, a foreign fraternal beneficiary corporation, may be admitted to do business in this Commonwealth.

The Supreme Lodge was incorporated in Kentucky in 1873. In 1878 it entered Massachusetts and established here subordinate lodges. In 1883 one of these subordinate lodges, called the Grand Lodge, Ancient Order of United Workmen, was incorporated under the Massachusetts laws. Although an independent fraternal beneficiary corporation, the Grand Lodge continued to affiliate with the Supreme Lodge and contribute to its support in a manner afterwards expressly made legal by St. 1899, c. 442, § 15 (R. L., c. 119, § 10). In 1886 the charter of the Supreme Lodge was withdrawn, and the Supreme Lodge continued to exist as a voluntary association until 1899, when it was incorporated under the laws of Texas. It is to-day a Texas corporation.

During the period from 1886 to 1899, while the Supreme Lodge was a foreign voluntary association, the Grand Lodge, the Massachusetts corporation, continued in business in Massachusetts and is still transacting business here.

The important feature of these dates to be noted is that during the period from 1886 to 1899 the Supreme Lodge was a foreign unincorporated association.

The law regulating the admission of a foreign fraternal beneficiary corporation is R. L., c. 119, § 13: —

No such corporation which was not doing business in this commonwealth on the twenty-third day of May in the year nineteen hundred and one shall hereafter be admitted to do such business in this commonwealth unless it shall have adopted and have in force mortuary assessment rates which are not lower than those then indicated as necessary by the "National Fraternal Congress Mortality Tables."

Two questions arise: —

(1) Was the Supreme Lodge doing business in Massachusetts on May 23, 1901?

(2) If not, has the Supreme Lodge in force mortuary assessment rates not lower than those indicated as necessary by the National Fraternal Congress Mortality Tables?

To discover whether the foreign body as well as the Massachusetts corporation was doing business here on May 23, 1901, it is necessary to look at the history of the statutes relative to such foreign corporations and associations.

St. 1888, c. 429, § 11, provided:—

Fraternal beneficiary corporations, associations or societies organized under the laws of another state, now transacting in this commonwealth business as herein defined, and which now report or which shall report when requested to the insurance department, may continue such business without incorporating under this act, by conforming in other respects to the foregoing provisions and to the requirements of section thirteen of this act.

This section was repeated substantially in St. 1890, c. 341, § 11.

In 1892 a special act (chapter 40) was passed, providing as follows:—

Section eleven of chapter four hundred and twenty-nine of the acts of the year eighteen hundred and eighty-eight, as amended by section one of chapter three hundred and forty-one of the acts of the year eighteen hundred and ninety, is hereby amended by striking out, in the first and second lines, the words "associations or societies", and adding to the section at the end thereof the following:— . . . The transaction of the business defined in this act, by any corporation, association, partnership or individuals, unless organized or admitted as provided herein, is forbidden.

Since at the time of the passage of the St. 1892, c. 40, the Supreme Lodge was an association and not a corporation, from and after the passage of that act the Supreme Lodge had no right to continue in business in Massachusetts. The right previously existing, of a foreign unincorporated association thus taken away, was never restored. See St. 1894, c. 367, § 10; St. 1898, c. 474, § 13; St. 1899, c. 442, § 18; St. 1901, c. 422, § 18; R. L., c. 119, § 13.

Since St. 1892, c. 40, destroyed the right of such an association to continue in business in Massachusetts without being admitted according to law, I advise you that you have no authority to admit the Supreme Lodge to Massachusetts now unless it shall appear that it has adopted and has in force mortuary assessment rates which are not lower than those indicated as necessary by the National Fraternal Congress Mortality Tables. It becomes necessary,

therefore, to consider whether its mortuary assessment rates are high enough.

Taking the National Fraternal Congress Mortality Tables and interest at four per cent. which is the same rate used by the Fraternal Congress and by this company in its computations, I find that the level premium required at age twenty is \$10.57; that is, one entering the company at age twenty must pay \$10.57 at the beginning of each year in order that the company may have on hand \$1,000 with which to pay his benefit certificate when he dies at the time appointed in the mortality table. A portion of this premium goes the first year for current insurance, a larger portion for reserve. To illustrate: suppose one thousand enter at age twenty and remain until death; during the first year a small proportion of them will die; enough money is taken from the premiums of those who live to make up in addition to the premiums received from those who die the amount of those losses; the balance goes to reserve. The next year more of each premium goes to pay current mortality and less to reserve. After many years all the annual premiums will be required to pay the increasing death losses, and, in addition, sums must be taken from the reserve. Finally, the last man of the one thousand dying, there will be exactly \$1,000 left of the reserve to pay his certificate. Obviously, the accumulation of a reserve is necessary to keep the company solvent. Under the section of the statute which I am considering (§ 13), a company must "have in force" rates which are not lower than those indicated as "necessary" by these tables. Necessary for what? This can only mean necessary for keeping the company in a condition of solvency so that it may meet the losses, assuming that members will die as fast as and no faster than the tables predict. This phrase inevitably implies that the rates must be sufficient to produce a sufficient reserve if the members die according to the mortality rate of the tables. These rates, moreover, must be kept in force. The company must collect them.

It has been suggested that the statute does not require a fraternal corporation to collect any reserve, that it may continue, since the enactment of this provision (St. 1901, c. 422, § 18), as before to assess merely for current mortality, the effect of this provision being simply to set a maximum limit upon the assessments which it may call, and my attention is called to the earlier requirement codified in the same statute as section 7, that such company may collect, in addition to a death fund amounting to three assessments on all the members, an emergency fund not exceeding at any time five per cent. of the aggregate face value of its outstanding certificates. In brief, one section of the chapter,

the earlier in original enactment, limits the death fund arbitrarily to a percentage of the face value of the certificates in force, while another section, later in enactment, requires, by its necessary construction, that a death fund be accumulated by a company organized or admitted subsequent to May 23, 1901, large enough to keep the company mathematically solvent, according to the National Fraternal Congress Tables. This being a flat contradiction, I advise that the earlier arbitrary limit of section 7 must yield to the later scientific adjustment of the rates in section 13, and can be applied only to companies organized or admitted before that date.

The annual level premium which a company must collect and hold for death claims at age twenty is, then, \$10.57. This increases each year, until at age fifty-five it is \$40.83.

What are the rates of the Supreme Lodge, Ancient Order of United Workmen, throughout these ages? At age twenty the rate is said to be \$12.60, leaving out of sight the guaranty fund which will be discussed later. At age fifty-five it is said to be \$50.40, and at each intermediate age the rate is said to be greater than the corresponding rate required by the National Fraternal Congress Tables.

But the rates, thus arranged in parallel columns, —

	N. F. C.	A. O. U. W.
Age 20,	\$10 57	\$12 60
Age 21,	10 87	12 96
Age 55,	40 83	50 40
Age 59,	50 47	50 40

are not really parallel; they do not stand for the same thing respectively; \$10.57 in the National Fraternal Congress column means that \$10.57 is paid in advance to the company as a yearly premium; \$12.60 in the Ancient Order of United Workmen column means that, if the company sees fit to collect twelve monthly assessments of \$1.05 each, it will have taken from the member during the year \$12.60. But, in fact, the Ancient Order of United Workmen collects only eight or nine of the monthly assessments, so that the rate which it enforces is less than the National Fraternal Congress rate.

It seeks to justify this failure to collect rates equal to those in-

dedicated as necessary by the National Fraternal Congress Mortality Tables by pointing out that it gives its members the benefit of the company's gain in mortality over that of the tables by assessing only enough to cover the reserve element of the annual premium and the actual mortality of the year. Instead of collecting the whole premium and returning to each member his share of the company's gain from vitality, in the form of a dividend, as mutual old line companies are supposed to do, it declares a dividend to its members by failing to assess them for more than is actually needed, in addition to the reserve.

There is no authority in the fraternal law for paying dividends to members in any mode. Formerly, such corporation would assess only from hand to mouth, relying on "new blood" to support the business. The inevitable result was the freezing out of old members or insolvency, — often both. There was no occasion for dividends and none were authorized. Indeed, there is an express provision that the whole benefit fund shall be used only for the payment of death and disability benefits (§ 7). Now, a new company or a newly admitted company is required to have in force rates based on these mortality tables. In order to give members the benefit of a gain in actual over predicted mortality, that provision of section 7 must be changed by legislation.

A similar criticism applies to the classified rates of the Supreme Lodge, under which members are insured on the renewable term plan, instead of the level plan, paying a higher rate during each successive term of five years until they reach the age of thirty-five, when, if they remain in the order, they are required to pay the level rate of \$50.40 thereafter. Under this system a man of twenty pays a maximum of \$6 in assessments during the year; a man of fifty-four a maximum of \$18; a man of fifty-five a maximum of \$50.40. While these amounts are higher than the National Fraternal Congress rates for the corresponding ages, they are not rates which are enforced.

Thus far, I have discussed only the rates up to age fifty-five. Thereafter the so-called rate of the Supreme Lodge continues \$50.40 until the end of the table, while the rate required by the National Fraternal Congress Mortality Tables increases with rapidity; so that while one who enters at sixty must pay a level rate of \$53.34, one entering at sixty-five must pay \$72.32, and at seventy \$97.91.

The company argues that this makes no difference since it has in force a by-law prohibiting the admission of members above the age of fifty-five. But the members who are insured by the company are *at present* of all ages, and only a few of them since their

entry into the order have paid the rates necessary to keep the order solvent under the National Fraternal Congress Tables. That the rates may be not lower than those indicated as necessary by the tables, each member must pay in from the time the law takes effect enough to create the reserve required to carry out his contract of insurance. It is not sufficient that the company makes its rates high enough for those it admits for the future, while carrying old men whose present rates are not high enough to insure the fulfilment of their contracts. At the time of changing from the old way to the new the company must treat those who entered under the old-fashioned system and have paid only for their current insurance as new members, and charge them the rates suitable to their ages when the change is made. Those members are like persons insured in an old line company, who carry yearly renewable term insurance whereby they pay each year the current cost of insurance; at any given time they must pay the rate of attained age, not the rate of age of entry. Whether they are given in exchange a step-rate or a level rate, it must be that applicable to their attained age.

If at and since the age of entry the members had been paying National Fraternal Congress rates, there would of course be no occasion for raising their rates now. But as they have only been paying current insurance they must begin paying the National Fraternal Congress rates fitting the ages which they have attained at the time the law goes into effect upon the company.

I advise you, therefore, that even were the company to begin now to *collect* rates equal to the National Fraternal Congress rates from all members below the age of fifty-nine, the age when the National Fraternal Congress rate begins to exceed the so-called Ancient Order of United Workmen rate, it could not be admitted to do such business in this Commonwealth.

In this connection should be noted the contention of the Supreme Lodge that its "guaranty fund" obviates the need of collecting from all members the necessary rates. The company has calculated the deficiency arising from the cause just discussed, and has established to meet it an additional rate which it assesses upon the members under the age of fifty-five. At the time of each assessment of the beneficiary rate it makes an additional assessment which goes to the guaranty fund. The present value of the guaranty assessments which may be laid, if all the members stay in the order and pay them, is said to be in excess of the present value of the deficiencies. Thus the company increases the premiums of the young to make up for the lack of sufficient premiums from the old.

The efficacy of this method depends upon the persistence of those

who are to pay the extra rates. Its object will be defeated by the lapsing of members under the age of fifty-five. Obviously, the persistent members will be those whose rates are paid in part by others, while those who are expected to bear their brothers' burdens may not remain and "cheerfully pay," as the company suggests that they are doing at present. This method is therefore open to the same objections as the old-fashioned method of collecting a dollar all around when a member dies; it depends for success upon the constant support of young men.

I advise you that collection of rates from one class of members to pay the cost of insuring another class is not equivalent to the enforcement of rates not lower than those indicated as necessary by the National Fraternal Congress Mortality Tables.

The problem of adjusting the finances of an existing fraternal company so that it may have a reasonable chance of keeping out of the hands of a receiver, it having members of all ages, of whom the older ones cannot be expected to pay according to their attained ages, is, indeed, difficult. It is a problem which the Legislature has not attempted to solve for the companies now doing business in Massachusetts. But in this statute it has shown its determination that the problem be not increased in size by admitting to do business here foreign companies which are not on their own feet, whose members are not paying, each for himself, rates which are adequate to keep their insurance good according to the mortality rate assumed in the National Fraternal Congress Tables.

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Statute — Construction of General and Particular — Regulation of Fisheries in Swan Pond River.

St. 1895, c. 203, § 1, authorizing the selectmen of the town of Dennis to "prescribe the times, places and manner of taking herring or alewives, perch, salmon, eels and trout in Swan Pond River" and certain tributaries thereof, does not vest in the selectmen of Dennis any power to make rules or regulations which are inconsistent with the general statutes relating to fisheries, whether or not such statutes were enacted after the passage of St. 1895, c. 203.

JULY 29, 1904.

HON. J. W. COLLINS, *Chairman, Commissioners on Fisheries and Game*

DEAR SIR: — You desire my opinion upon the question whether St. 1895, c. 203, entitled "An Act to regulate the fisheries in Swan Pond River," and providing that the selectmen of the town of Dennis may prescribe the times, places and manner of taking herring or alewives, perch, salmon, eels and trout in Swan Pond

River, permits the selectmen to authorize the use of implements for taking such fish forbidden by the general laws.

St. 1904, c. 308, provides : —

Whoever draws, sets, stretches or uses a drag net, set net, purse net, seine or trawl, or whoever sets or uses more than ten hooks for fishing, in any pond, or aids in so doing, shall be punished by a fine of not less than twenty nor more than fifty dollars. The provisions of this section shall not affect the rights of riparian proprietors of ponds mentioned in section twenty-three or the corporate rights of any fishing company.

St. 1895, c. 203, § 1, is as follows : —

The selectmen of the town of Dennis, or a majority of them, shall annually, on or before the twentieth day of April in each year, prescribe the times, places and manner of taking herring or alewives, perch, salmon, eels and trout in Swan Pond river, at the mouth thereof or in the ponds and streams connected therewith, and they may appoint some suitable person or persons to take the same, and shall fix the compensation to be paid therefor ; or may grant permits to suitable persons, being inhabitants of said town, to catch any of said fish in the said river or the ponds and streams connected therewith, and fix the compensation to be paid to said town for such permits, and shall determine the quantity of said fish which each family in said town shall receive from such catches, and establish the price therefor ; and may sell, at auction or otherwise, the right of fishing in said river and its waters to one or more persons, for a term of not more than five years at one sale, upon such terms and conditions as the said town or said selectmen may direct : *provided*, that nothing in this section shall be construed to prevent any person, being an inhabitant of said town, from taking fish with natural or artificially baited hook and hand line, under such regulations as said selectmen may prescribe.

Section 4 provides the penalty for taking fish in the designated waters “ at any time or place or in any manner other than may be allowed by said selectmen.”

Section 5 provides that if any boat, vessel or craft is found with more fish on board than is allowed by the selectmen, “ or if any person or persons with any such boat, vessel or craft, shall be detected in taking or in attempting to take any of said fish in any manner different from that prescribed by said selectmen or with seines, nets or with other instrument of a kind different from that established by said selectmen,” the selectmen may seize the vessel in order that it may be attached and made answerable for the fines. The selectmen of Dennis allege that under this statute they are exempted from the operation of all general laws regulating fishing throughout the Commonwealth.

I am of opinion that chapter 203 of the Acts of 1895 did not vest in the selectmen of the town of Dennis any absolute or irrevocable authority with relation to the fisheries, nor authorize the making of rules and regulations in contravention of the general laws governing fisheries throughout the Commonwealth.

Under the present law it appears that the use of seines or nets in ponds is throughout the Commonwealth illegal and forbidden, and it cannot be that the selectmen of Dennis may, under any assumed authority of the act of 1895 above stated, authorize fishing in a manner prohibited by the Revised Laws in the waters of Swan Pond River, if such waters are in fact within the prohibition of that law. The special power given to the selectmen goes no further than to permit them to make such local rules and regulations as are not inconsistent with the general statutes, and the Legislature in enacting the special law did not intend to then or thenceforward divest itself of authority over the waters specified in the act; on the contrary, I am of opinion that it was contemplated that further legislation might be had without control or limitation by reason of the special act.

It would follow, in my opinion, that subsequent legislation applicable to the subject-matter would regulate, modify or control the provisions of the earlier statute, and the authority of the town thereafter could be executed only within and consistently with such general laws as should be from time to time in effect. The rights conferred by St. 1895, c. 203, are not abrogated in their entirety by the provisions of the Revised Laws, but the authority under the earlier act must be subject to the provisions of the general laws.

Very truly yours,

HERBERT PARKER, *Attorney-General.*

State Board of Publication—Statistics—Approval of Publication.

Statistics, or figures, specifically required by law to be set forth and published in the reports of officers or heads of departments of the Commonwealth are not subject to the jurisdiction of the State Board of Publication as defined by St. 1904, c. 388, § 2, which provides that boards, commissions and heads of departments shall not incorporate any statistics into the documents relating to their several departments without first securing the approval of such Board.

SEPT. 21, 1904.

WILLIAM N. DAVENPORT, Esq., *Secretary, State Board of Publication.*

DEAR SIR:—The State Board of Publication in substance desires to know whether specific statistics required to be set forth and published in the reports of officials or departments of the Com-

monwealth, under the provisions of general or special laws, are now within the supervisory jurisdiction of the State Board of Publication as defined by section 2 of chapter 388 of the Acts of 1904, which section is as follows:—

Boards, commissions and heads of departments having charge of preparing and printing documents relating to their various departments shall not incorporate therein any statistics unless the same shall be approved by the state board of publication.

I am of opinion that this section must be restricted in its application to those statistics which are not specifically required by legislation to be embodied in the report under consideration. And I am further of opinion that where there is a specific statutory requirement for the publication in the report of any commission or official of particular statistics, such statistics must be published, and the duty of publication is imposed upon the official or commission by statute. In my judgment the statute of 1904 above referred to cannot and ought not to be so construed as by indirection to modify, alter or remove a specific official duty imposed by law upon any officer or servant of the Commonwealth.

It seems to me, therefore, perfectly clear that the jurisdiction of the Board of Publication does not extend so far as to authorize or permit that board to restrict or prohibit the publication of specific statistics required by pre-existing law. If the Board of Publication have any jurisdiction in such premises, it must be limited to an examination of such statistics, and to the determination whether or not they comply with the provisions of law relating thereto. The Board might, if it appeared that the statistics offered for publication exceeded the legal requirement, reduce them to the limit of such requirement, but it is indeed doubtful whether even this power is vested in the Board of Publication, since their authority in general is supervisory and clearly not intended to limit or control those publications which the law has otherwise specifically required.

Very truly yours,

HERBERT PARKER, *Attorney-General.*

Clerk of the Courts — Vacancy — Clerk of the Superior Court for the County of Suffolk.

The phrase "clerk of the courts" in R. L., c. 11, § 277, which provides that in case of a vacancy in the office of clerk of the courts the Governor shall cause precepts to be issued for an election to fill such vacancy at the next annual State election for which precepts can be

seasonably issued, extends to and includes the office of clerk of the Superior Court for the county of Suffolk, and it is therefore the duty of the Governor, upon proper representation that a vacancy in such office exists, to issue his precept for an election to fill such vacancy at the next annual State election for which such precept may be seasonably issued.

SEPT. 27, 1904.

HIS EXCELLENCY JOHN L. BATES, *Governor*.

SIR: — I have the honor to acknowledge Your Excellency's communication under date of Sept. 12, 1904, in which you advise me that you are informed that the Secretary of the Commonwealth has received official notification from the Superior Court for the county of Suffolk of the death of Clerk Joseph A. Willard, and that, in accordance with the statute, an appointment has been made by the judges to fill the vacancy. You further instruct me that "the question has arisen as to whether or not the appointment made by the judges under the statute is until such time as an election can be held to fill the vacancy under a precept issued by the Governor, or whether the appointee fills the vacancy for the unexpired term for which the late Mr. Willard was elected." Your Excellency further states that you have been requested to issue a precept for an election, and that you desire my opinion as to whether or not under the statute the duty so to do devolves upon you.

It is a fundamental principle that when a vacancy exists in a public office a person appointed to fill that vacancy will, in the absence of express or necessarily implied provisions to the contrary, hold such office during the unexpired term of the original incumbent. The person appointed to the vacancy in the office of clerk of the Superior Court, therefore, will continue in office until the qualification of his successor after the annual State election in 1906, unless the Legislature has otherwise provided. See R. L., c. 11, § 318: —

At the annual state election in the year nineteen hundred and six, and in every fifth year thereafter, a clerk of the supreme judicial court for the county of Suffolk and two clerks of the superior court, one for civil and one for criminal business, shall be chosen by the voters in said county; and, by the voters in each of the other counties, a clerk of the courts who shall act as clerk of the supreme judicial court, of the superior court and of the county commissioners.

Since the adoption in 1855 of the Nineteenth Amendment of the Massachusetts Constitution, by virtue of a law enacted in 1856 (St. 1856, c. 173), clerks of the county courts who, prior to that act had been appointed by the justices, have been elected at the

annual State elections for periods of five years. The statute provides for the filling of vacancies, in general, by election at the annual State election following the vacancy. Its present form is as follows (R. L., c. 11, § 277) : —

Upon a failure to choose a district attorney, clerk of the courts, register of probate and insolvency or sheriff, the governor shall cause precepts to be issued to the proper officers, directing them to call meetings of the voters on the day appointed therein, for the election of such officer.

Upon a vacancy by removal or otherwise in any of the above-named offices, he shall in like manner cause precepts to be issued for an election to fill such vacancy at the next annual state election for which precepts can be seasonably issued.

. . . Upon a vacancy in the office of clerk of the courts in any county, or of the clerk of the supreme judicial court in the county of Suffolk, the justices of said court may appoint a clerk who shall hold the office until a clerk is elected and qualified.

Upon a vacancy in the office of a clerk of the superior court in the county of Suffolk, the justices of said court may appoint a clerk.

The first question is, whether in the last two clauses of this section a distinction is made in the manner of filling the vacancy in the office of the clerk of the Superior Court and the manner of filling a vacancy in the office of clerk of the Supreme Judicial Court in Suffolk County. This part of the section appears in the Public Statutes as follows (P. S., c. 159, § 7) : —

If a vacancy occurs in the office of clerk of the courts in any county, or of the clerk of the supreme judicial court in the county of Suffolk, the justices of said court or a majority of them may appoint a clerk, who shall hold the office until the next annual election, or until another is elected or appointed in his stead. Upon a vacancy in the county of Suffolk in the office of a clerk of the superior court, the justices of that court shall in like manner appoint a clerk for a similar term.

In my opinion there is no intention manifested in the compilation of this statute into the section of the Revised Laws above quoted to change the provisions of the Public Statutes. A vacancy in the office of a clerk of the Superior Court is to be filled in the same manner as a vacancy in the office of clerk of the Supreme Judicial Court in Suffolk County. See also St. 1890, c. 423, §§ 190, 250; St. 1893, c. 417, § 218; St. 1898, c. 548, § 315.

The remaining question is, whether the clerk of the Superior Court of Suffolk County for civil business is a "clerk of the courts," within the fair meaning of this statute. If not, there is no authority for issuing a precept for an election to fill a vacancy

in his office, and the vacancy must be filled at the next quinquennial election.

In each county other than Suffolk there is one officer who is clerk of both the Supreme Judicial Court and the Superior Court. He has always been designated as "clerk of the courts." In Suffolk County there are three clerks, one for each of the three county courts; each is clerk of one of the courts and is a clerk of the courts; no one of them is, to speak with the utmost strictness, "clerk of the courts."

It may be argued that the Legislature has distinguished between the ancient and well-defined office of "clerk of the courts" and the special offices in Suffolk County of more restricted jurisdiction and authority, namely, the clerk of the Supreme Judicial Court and the two clerks, the one upon the civil and the other upon the criminal side of the Superior Court; that in the former case a specific provision has been made for a special election, while in the latter case such specific provision has been omitted.

Since, however, the phraseology of the Revised Laws is open to different meanings, and no reason can be suggested why the Legislature should have intended such a distinction in the manner of filling vacancies in Suffolk County, it is proper to trace the history of this statute, in order to discover what the intention of the Legislature is.

Throughout the several codifications of the statute, including the General Statutes of 1860, the same ambiguity of language is present, but in the original enactment of 1856 the meaning is clear that a vacancy in Suffolk County is to be filled exactly as in the other counties.

St. 1856, c. 173 :—

SECT. 2. At the annual election in November, in the year one thousand eight hundred and fifty-six, and at the annual election in November of every fifth year thereafter, the legal voters of the several cities and towns in each county, excepting in the county of Suffolk, shall choose by ballot for their respective counties, a clerk, who shall act as clerk of the supreme judicial court, and the court of common pleas, within and for the county for which he shall be chosen; and at the same time the legal voters of the county of Suffolk shall choose by ballot for said county of Suffolk, a clerk of the supreme judicial court, a clerk of the superior court, and a clerk of the municipal court of said county.

SECT. 9. In case a vacancy shall, from any cause, occur in the office of any of the clerks of courts hereinbefore mentioned, the judges of the said several courts, or a majority of the same, may appoint a suitable person to fill such office, who shall hold the same until the annual election in November next thereafter, or until another is chosen or ap-

pointed in his stead; and at said annual election next thereafter, an election by ballot shall be had, to fill said office for such unexpired term as may exist, in the same manner as is hereinbefore provided for the election of said clerks.

These sections, together with the amendment of St. 1859, c. 196, § 9, making a civil and a criminal division of the Superior Court in Suffolk County, were codified in the General Statutes of 1860, as follows (Gen. St., c. 10):—

SECT. 3. In the year eighteen hundred and sixty-one and every fifth year thereafter, there shall be elected by the voters in the county of Suffolk, a clerk of the supreme judicial court for said county, and two clerks of the superior court for said county, one for the civil, and one for the criminal, business, and by the voters in each of the other counties a clerk of the courts for the county, who shall act as clerk of the supreme judicial court, the superior court, and the county commissioners. Such clerks shall hold their offices for five years from the first Wednesday of January following their election, unless sooner removed as provided by law.

SECT. 10. If on the days aforesaid there is a failure to elect a district-attorney, clerk of the courts, register of probate and insolvency, sheriff, or commissioner of insolvency, in any district or county, the governor shall by proclamation declare such failure and order a new election to be had on such day as he shall appoint, and shall continue so to order such elections until a choice is effected.

SECT. 13. If a person elected to either of the offices mentioned in section ten is removed therefrom, or otherwise vacates the same, an election to fill such office for the remainder of his term shall be ordered by the governor, and shall be had on the Tuesday next after the first Monday of November.

The difficulty arises from the fact that section 13 refers to a vacancy in one of the offices mentioned in section 10, in which the phrase is "clerk of the courts," instead of section 3, which enumerates specifically the three clerks in Suffolk County as well as the clerks in the other counties. This reference to a vacancy in the office of a clerk of the courts was not, in my opinion, an intentional exclusion of the clerks of the Suffolk County courts. By using the general phrase "clerk of the courts" the compilers do not intend thus to change the provisions of the statute of 1856. My opinion is strengthened by the fact that the commissioners who compiled this revision, in their note upon this chapter, commented upon a change which they made in section 13, and were silent as to any alteration of meaning in this respect.

Their note is as follows:—

Sect. 13. The act of 1856, chapter 173, provides for appointments to fill vacancies, and that the persons appointed shall hold until the annual election in November next thereafter, or until another is chosen or appointed. It then provides that an election shall be had to fill the vacancy at "the said annual election thereafter." As a vacancy may occur so near the time of the annual election that it would not generally be known, the commissioners have provided that the vacancy shall be filled at the time of the annual election without confining it to the next one, and that warrants therefor shall be issued.

I therefore advise Your Excellency that it is your duty, under the statutes, to cause a precept to be issued for an election to fill this vacancy at the next annual State election for which such precept can be seasonably issued.

I am, with great respect,

Very truly yours,

HERBERT PARKER, *Attorney-General.*

Marine Insurance — Automobile.

An automobile may, within the provisions of R. L., c. 118, § 29, be insured against the perils of the sea and other perils usually insured against by marine insurance, including risks of inland navigation and transportation, whether such automobile is being transported upon a railroad car or a vessel, or upon its own wheels.

OCT. 8, 1904.

HON. FREDERICK L. CUTTING, *Insurance Commissioner.*

DEAR SIR: — Your letter of August 24 requests my opinion whether an insurance company, domestic or foreign, authorized to transact the business of marine insurance in this Commonwealth, may issue a policy of insurance on an automobile, under a marine form of policy instead of on the Massachusetts standard form of fire insurance policy.

Section 29, chapter 118 of the Revised Laws provides that a company duly authorized to transact the business of marine insurance may "insure upon the stock or mutual plan vessels, freights, goods, money, effects, and money lent on bottomry, or respondentia, against the perils of the sea and other perils usually insured against by marine insurance, including risks of inland navigation and transportation."

The Legislature has prescribed no standard form of marine insurance policy. The form used by the company in question provides as follows: —

Touching the adventure and perils which the said company is contented to bear and take upon itself in this voyage, they are of the seas, — fire, barratry of the master (unless the insured be an owner of the ves-

sel) and of the mariners, and all other losses and misfortunes which have or shall come to the damage of the said property or any part thereof, to which insurers are liable by the rules and customs of insurance in Boston, subject to the conditions and provisions contained or referred to by clauses in this policy.

To the marine form of policy is attached a rider insuring the automobile within the limits of the United States, including while in building, on road, ferry or inland steamer, or on a coastwise steamer bound from a United States port to a United States port, covering loss or damage to the automobile caused by fire, also covering, while on board railroad cars, against the risk of fire and derailment of the cars only, and while on board steamers against marine perils only (including fire).

I am of opinion that an automobile may be thus insured against the perils of the sea and other perils usually insured against by marine insurance, including risks of inland navigation and transportation, whether the automobile is being transported upon a railroad car, a vessel, or upon its own wheels.

Very truly yours,

HERBERT PARKER, *Attorney-General.*

Charles River Basin Commission — Removal of Craigie Bridge — Taking.

Under the provisions of St. 1903, c. 465, providing that the Charles River dam, the construction of which is authorized thereby, "shall occupy substantially the site of the present Craigie bridge, which shall be removed by the commission," the Charles River Basin Commission is not required to make a taking of the existing bridge before proceeding with its removal.

OCT. 8, 1904.

HON. HENRY S. PRITCHETT, *Chairman, Charles River Basin Commission.*

DEAR SIR:—Your letter of September 23 requests my opinion as to whether or not it will be necessary for you to make a taking of Craigie bridge across the Charles River in order to carry out the work which you are authorized to do by St. 1903, c. 465. Section 3 of that act provides that the Charles River dam "shall occupy substantially the site of the present Craigie bridge, which shall be removed by the commission." Craigie bridge is a portion of the public highway, and as it now exists was built by commissioners under St. 1873, c. 199, the expense thereof being paid equally by the cities of Boston and Cambridge. The expense of maintenance is also shared equally by those cities. St. 1898, c. 467, § 14.

St. 1903, c. 465, § 3, provides that the Charles River dam shall

not be less than one hundred feet in width at water level, and "a part thereof shall be a highway and the remainder thereof shall be a highway, or park or parkway, as the commission shall determine. . . . The part of the dam used as a highway shall be maintained and operated in the same manner as the Cambridge bridge, and under the laws now or hereafter in force relating to said bridge." In other words, the part of the dam used as a highway is to be maintained and operated by a board of two commissioners, one appointed by the mayor of the city of Boston and one by the mayor of the city of Cambridge, exactly as the present Craigie bridge is maintained and operated under St. 1898, c. 467, § 14. By the act of 1903 the Legislature temporarily took the control of Craigie bridge out of the hands of the board of bridge commissioners and gave it into the hands of your commission, for the purpose of removing it and of building a new bridge in its place. By section 9 the expense of that work will be borne by the two cities, and the control over the new bridge, when you have finished it, will be vested in the board of bridge commissioners. A similar plan was adopted for rebuilding the West Boston bridge by St. 1898, c. 467. The rights of the two cities are the same as though the Legislature had authorized the board of commissioners having control of the bridge to rebuild it at the expense of the cities, in which case no taking would be necessary. The present structure was built in that way, and the constitutionality of legislation of that character has been for a long time recognized. *Carter v. Cambridge & Brookline Bridge Proprietors*, 104 Mass. 236.

I am of opinion, therefore, that your commission should not make a taking of the present Craigie bridge, but should proceed to remove it and rebuild the highway across the river in accordance with the provisions of your enabling act.

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Domestic Animals — Contagious Diseases of Cattle — Cattle Bureau.

The powers vested under the provisions of R. L., c. 90, as amended by St. 1902, c. 116, in the officers of the Cattle Bureau with relation to contagious diseases of cattle are not to be extended by implication to contagious diseases other than those enumerated in R. L., c. 90, § 4.

OCT. 10, 1904.

AUSTIN PETERS, Esq., *Chief of the Cattle Bureau*.

DEAR SIR: — Your letter of July 19 calls for my opinion upon the question whether a disease of the eye, known as *enzootic ophthalm-*

mia, which has attacked certain cattle in the town of Westborough, is a contagious disease within the meaning of the definition of that term contained in R. L., c. 90, § 4. The disease in question is stated to be apparently contagious but not dangerous to the animals attacked by it, or to the health of persons who may be brought into contact with it. Upon these facts you inquire specifically whether there is any legal authority in the chapter above referred to, as amended by St. 1902, c. 116, § 3, for isolating and forbidding the sale of animals from herds where such disease exists, until the danger of contagion is over.

Assuming that the disease in question is in no respect dangerous to mankind, I am of opinion that you have no jurisdiction in the premises. The evident purpose of the statute was to protect and preserve the health of persons purchasing the several products derived from domestic cattle; and it was not intended to relieve the owner of cattle from the responsibility of their care and maintenance or to preserve the health of the cattle themselves. The diseases specifically enumerated in section 28 of chapter 90 of the Revised Laws appear to be contagious diseases which affect the products derived from cattle, either milk or meat, and through them the health and safety of the persons by whom they are consumed. The powers vested in the officers of the Cattle Bureau, in the case of the contagious diseases enumerated in the statute, are very broad, and for that reason are not, in my opinion, to be extended by implication to diseases other than those specifically mentioned in section 28.

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Person infected with Contagious Disease — Transportation beyond the Borders of the Commonwealth for Cure and Treatment.

There is no existing provision of law by virtue of which a person found within this Commonwealth suffering with a contagious or infectious disease may, without his consent, be transported beyond the borders of the Commonwealth, to be there confined and treated for such disease.

OCT. 14, 1904.

LEONARD HUNTRESS, M.D., *Trustee, State Hospital and State Farm.*

DEAR SIR: — You seek my opinion in behalf of your Board by an inquiry as follows: Whether under any existing law of the Commonwealth there is authority by virtue of which a person found within this Commonwealth suffering with a contagious or infectious disease known as leprosy may be transported, without his consent,

beyond the borders of this Commonwealth, to be there confined and treated for such disease.

There is no provision of statute which in terms authorizes such transportation, confinement and treatment. R. L., c. 85, §§ 23 and 24, provide for the transportation of paupers to any other State, or to any place beyond the sea "where they belong." This, however, is a different matter from the deportation for the purpose of confinement and treatment, under the control of officers of this Commonwealth.

R. L., c. 75, § 46, as amended by Acts of 1902, c. 206, § 2, provides for the removal of persons infected with contagious disease in the following language:—

A magistrate authorized to issue warrants in criminal cases may issue a warrant directed to the sheriff of the county or his deputy, or to any constable or police officer, requiring them under the direction of the board to remove any person who is infected with contagious disease, or to impress and take up convenient houses, lodging, nurses, attendants and other necessaries. The removal authorized by this section may be made to any hospital in an adjoining city or town established for the reception of persons having smallpox or other disease dangerous to the public health, provided the assent of the board of health of the city or town to which such removal is to be made shall first have been obtained.

Control over inmates of the State Hospital is conferred upon the trustees of such hospital by R. L., c. 85, § 18.

The trustees of the state hospital shall have and exercise the same powers relative to pauper inmates and their property as towns and overseers of the poor have relative to paupers supported or relieved by them.

The power of overseers of the poor relative to the relief and support of paupers is fixed in part by R. L., c. 81, § 2.

The overseers of the poor shall have the care and oversight of all such poor and indigent persons so long as they remain at the charge of their respective cities or towns, and shall see that they are suitably relieved, supported and employed, either in the workhouse or almshouse, or in such other manner as the city or town directs, or otherwise at the discretion of said overseers. They may remove to the almshouse such children as are suffering destitution from extreme neglect of dissolute or intemperate parents or guardians, except as hereinafter provided.

This statute does not give overseers of the poor power to remove from the Commonwealth paupers having settlements in the Commonwealth without their consent (*Westfield v. Southwick*, 17 Pick. 68; *Deerfield v. Greenfield*, 1 Gray, 514; see also *Smith v. Peabody*,

106 Mass. 262). and the same limitation must attach to the powers of the trustees of the State Hospital.

There is, moreover, one general principle of interpretation which disposes of the whole question. In the absence of express words, or distinct implications, the presumption is that statutes have no extraterritorial effect. And this is true even in those cases where it would be in the power of the Legislature to give to statutes such an effect.

As to whether it would be in the power of the Legislature to provide for the removal from the Commonwealth, and the confinement and treatment without the Commonwealth, of a person afflicted with leprosy, who is unwilling to be removed, I express no opinion. It appears, however, that neither by express words nor by distinct implication do the statutes above quoted authorize such removal, confinement and treatment, and that consequently, according to the principles stated, the field for the exercise of the powers conferred is limited by the territorial boundaries of the Commonwealth.

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Insurance — Fire Insurance — Massachusetts Standard Policy — Modification — “Riders” — “Binding Slips” — Insurance Commissioner — Duties.

R. L., c. 118, § 60, does not forbid the making of a special contract inconsistent with the terms of the standard form of fire insurance policy therein contained, and in clause 7 expressly provides for such modification of the standard form as the parties themselves may choose to make; it follows, therefore, that a separate slip or “rider,” complying with the provisions of statute applicable thereto, may provide for cancellation upon less than the ten days' notice required by the standard form.

A fire insurance company is not required to make temporary insurance by means of “binding slips,” by which an agent is authorized to cover property with insurance from the moment of application until the applicant either receives his policy or is notified of the rejection of his risk, and such insurance may be terminated in any manner agreed upon by the parties.

The Insurance Commissioner is not required to pass upon or consider questions relating to the form or contents of the “binding slips” above mentioned.

OCT. 31, 1904.

HON. FREDERICK L. CUTTING, *Insurance Commissioner*.

DEAR SIR:—In your letter of September 14 you ask various questions as to the right of a fire insurance company doing business in Massachusetts to provide for the cancellation of its con-

tracts of insurance upon Massachusetts property, in a manner other than that prescribed by the standard form of policy contained in section 60 of chapter 118 of the Revised Laws.

No fire insurance company shall issue fire insurance policies on property in this commonwealth, other than those of the standard form herein set forth, except as follows :

Seventh, A company may write upon the margin or across the face of a policy, or write, or print in type not smaller than long primer, upon separate slips or riders to be attached thereto, provisions adding to or modifying those contained in the standard form ; and all such slips, riders and provisions must be signed by the officers or agent of the company so using them.

The language of the standard form in respect to cancellation is as follows :—

This policy may be *cancelled* at any time at the request of the insured, who shall thereupon be entitled to a return of the portion of the above premium remaining, after deducting the customary monthly short rates for the time this policy shall have been in force. The company also reserves the right, after giving written notice to the insured, and to any mortgagee to whom this policy is made payable, and tendering to the insured a ratable proportion of the premium, to cancel this policy as to all risks subsequent to the expiration of ten days from such notice, and no mortgagee shall then have the right to recover as to such risks.

You ask : “ Would it be lawful for a company to avail itself of the privilege granted by the ‘ Seventh ’ clause of section 60, chapter 118 of the Revised Laws, by using ‘ separate slips or riders ’ amending the time allowed for the cancellation of a policy to a shorter period than the stated ‘ ten days ’ ? ”

The Legislature has not attempted to make the provisions of the standard form compulsory upon insurer or insured, nor to make such form the sole permissible form of contract. Section 60, above quoted, does not forbid the making of a special contract embodying terms inconsistent with the terms contained in the standard form ; indeed, it provides for such modifications of the standard form as the parties may choose to make (clause Seventh, quoted above). The apparent purpose of the Legislature was to establish an approved form of contract upon which the insured might confidently rely without the necessity of considering special stipulations which might be obscure or of doubtful import as to the obligations or limitations of the contract. I answer the above question, therefore, in the affirmative. A rider complying with the

provisions of the statute relating thereto may permit of a cancellation upon less than the ten days' notice required by the standard form.

Your remaining questions refer to the "binding slips" used by fire insurance companies, by means of which the agent is authorized to cover property with insurance from the moment of application until the company accepts the risk and issues a policy, or rejects the risk and notifies the applicant of its rejection. You ask in varying forms whether such temporary insurance may be terminated by less than ten days' notice to the applicant.

"If a binder is issued or given by an authorized company or agent, which binder stipulates that it may be cancelled or revoked by the party issuing or granting the same, at a less time than the 'ten days' fixed by law, would such act constitute a violation of law, or, if not an actual violation, would the company have a legal right to abrogate or abridge the legal rights which are secured to the insured by the enactment or conditions of the 'standard' form of policy?"

"Could a binder as described as above be considered as legal, provided the ten days' allowance be *waived* by the agreement of both parties, assurer and assured?"

The universal custom of covering property while the insurance company is determining whether to issue a policy or not is convenient, and, indeed, a practical necessity in business, but no law compels the company to make this preliminary agreement, and if it be made, no law prescribes what its terms must be. It is not even required to be in writing. Since there is no legal obligation upon the company to make temporary insurance even for a moment, the company may "bind" such insurance for as long or as short a time as the parties may agree upon. You have, therefore, no duty to see to the form of these binding slips.

I answer your questions, specifically, as follows: The act of giving a binding slip, providing that the temporary contract evidenced by it may be terminated by notice within less than ten days, is not a violation of law. The law, as I have stated above, does not forbid the making of terms inconsistent with those of the standard policy.

I next consider the following question: "Does the giving of a parole agreement, or the issuance of a binder, constitute, theoretically at least, a contract, to be governed by the terms and agreements as fixed by the 'standard form of policy' herein referred to?"

If the binding slip does not provide for its own termination, the question whether the insurance contract evidenced by it may be

cancelled on reasonable notice, or whether, since the applicant and the company have made no inconsistent agreements, his property is insured pending the issuance of the policy according to the terms of the standard form, is one of great interest, upon which the decisions are not in accord. See *Lipman v. Niagara Fire Ins. Co.*, 121 N. Y. 454; *Karelsen v. Sun Fire Office*, 122 N. Y. 545; *Hicks v. British Amer. Ass. Co.*, 162 N. Y. 284; *Campbell v. Amer. Fire Ins. Co.*, 73 Wis. 100; *Baile v. St. Joseph F. & M. Ins. Co.*, 73 Mo. 371; *Neb., etc., Ins. Co. v. Seivers*, 27 Neb. 541. This interesting question, however, in nowise concerns your official duty.

Lastly: "Can a parole agreement or binder which by its terms fixes the time at which it is to remain in force at a longer term than ten days be cancelled by the company without giving the insured the ten days' notice required by the 'standard form'?"

The question whether a binding slip purporting to cover for thirty days may be cancelled upon notice, and if so, upon what notice, is also one which concerns only the parties to the contract.

Very truly yours,

HERBERT PARKER, *Attorney-General.*

Commitment — Person committed to Workhouse — Labor.

The word "commitment," as used in R. L., c. 30, § 21, providing that "every person who has been committed to a workhouse shall, if able to work, be kept diligently employed in labor during the term of his commitment," is to be broadly interpreted, and such provision is applicable not only to persons committed to a workhouse by a court but also to persons placed therein subject to the care and oversight of overseers of the poor, and without a technical commitment.

Nov. 21, 1904.

JOHN D. WELLS, Esq., *Clerk, State Board of Charity.*

DEAR SIR:—You request the opinion of the Attorney-General as to whether the words "every person who has been committed to a workhouse," in section 21 of chapter 30 of the Revised Laws, apply to all of the several classes of "persons" mentioned in section 1 of the same chapter.

R. L., c. 30, § 1, provides:—

A city or town may erect or provide a workhouse or almshouse for the employment and support of indigent persons maintained by or receiving alms from it; of persons who, being able to work and not having estate or means otherwise to maintain themselves, refuse or neglect to work; of persons who live a dissolute, vagrant life and exercise no ordinary calling or lawful business; of persons who spend their time

and property in public houses to the neglect of their proper business or who, by otherwise mispending their earnings, are likely to become chargeable to the city or town; and of other persons sent thereto under any provisions of law.

Section 21 provides:—

Every person who has been committed to a workhouse shall, if able to work, be kept diligently employed in labor during the term of his commitment. If he is idle and does not perform such reasonable task as is assigned, or if he is stubborn and disorderly, he shall be punished according to the orders and regulations established by the directors.

The inmates of workhouses are of two classes: first, those persons who are committed thereto by order of court (R. L., c. 208, § 30; c. 212, §§ 39, 46, 54, 55, 59); second, those who are supported therein as paupers under the care of overseers of the poor, but who have not been committed by an order of court (R. L., c. 81, § 2). Many of the persons enumerated in R. L., c. 30, § 1, above quoted, are included within the second class. It therefore becomes important to determine whether the words "commitment" and "committed," in R. L., c. 30, § 21, are to be interpreted narrowly, as meaning commitment by order of court, for if they are so to be interpreted it follows that certain persons enumerated in R. L., c. 30, § 1, namely, those within the second class above indicated, are exempt from the provisions of section 21.

I am of opinion, however, that the words are not to be so narrowly interpreted. "Commitment" and "committed" do not necessarily have technical meanings. See *Cumington v. Wareham*, 9 Cush. 585; *Commonwealth v. Barker*, 133 Mass. 399, and statutes therein construed. In defining them reference may be had to the earlier statutes, for words in an act are to be given the same meaning which they had in earlier acts *in pari materia*, in the absence of anything to show a contrary intent. *Reiche v. Smythe*, 13 Wall. 162; *Greenleaf v. Goodrich*, 101 U. S. 281, *semble*.

In the section of the original workhouse statute, in which the provisions of R. L., c. 30, § 21, appear, the words "committed" and "commitment" were not used in a technical sense, but were applied to the sending of persons to the workhouse by overseers of the poor.

Province Laws, 1743-44, c. 12, § 11, provided:—

That no town shall be at charge for the support or relief of any person committed to said house, who was not sent thither by the overseers belonging to such town; nor any person orderly committed to it shall

be discharged from it but by the overseers by whom he was committed, or by the overseers, at a general meeting, or otherwise by the justices of the court of general sessions of the peace, in the same county, upon application to them made for that purpose; and every person so committed, if fit and able to work, shall be held and kept stric[k]tly and dil[1]igently [i][e]mployed in labour during his or her abode there; and in case they be idle, and shall not duly perform such task or stint as shall be reasonably assign'd them, or shall be stubborn and disorderly, shall be punish[e]d according to the orders that shall be made for the ruling, governing, and punishing of the persons there to be committed, not repugnant to the laws of this province

The same statute provided that the overseers in any town "be and they are hereby directed and empowered to commit to such house . . . any person or persons . . . that hereafter in this act are declared liable to be sent thither." The persons so declared liable to be sent to the workhouse were enumerated in nearly the same terms as are used in R. L., c. 30, § 1. In Acts of 1788, c. 30, these provisions remained practically the same in form and substance. The revision of the laws in 1836 (R. S., c. 16) changed the form of the statute, and the form at that time adopted has, with minor changes, been retained (G. S., c. 22; P. S., c. 33), though many new provisions relative to commitments to workhouses for misdemeanors have been made.

There is, however, nothing which to my mind sufficiently strongly indicates any other intent as to the meaning of "committed" and "commitment" to rebut the inference from the way in which the words were used in the earlier statutes. The disappearance of the provision authorizing overseers to commit was doubtless due to the fact that it seemed to be unnecessary in view of the provision which was enacted in 1788 and now appears in R. L., c. 81, § 2, giving overseers the power to see that poor and indigent persons "are suitably relieved, supported or employed either in the workhouse or almshouse, or in such other manner as the city or town directs, or otherwise at the discretion of said overseers." The omission of the word "so" ("thus" in St. 1788) before "committed" in St. 1743-44, was required by the change in the form of the statute and by the intention to include within the scope of the provision persons committed under authority of later acts by order of court; but there was nothing in it tending to limit the application of the provision to such persons. The use of the expression "within the time for which he was committed," in the section relating to discharges, and the expression "during the term of his commitment," in the section to be construed, is not inconsistent with a situation where some of the persons referred

to are committed for definite, some for indefinite, periods; and the addition of the words "or received," in Gen. St., c. 22, § 17, and later revisions, to the provision requiring the master of each workhouse to keep a register "of the names of the persons committed," was hardly sufficient to impress upon the words "committed" and "commitment," wherever they occur, a technical meaning which they certainly did not have in the early statutes dealing with the same subject.

It seems, therefore, that these words should be broadly interpreted, and consequently that the requirement of diligent employment in labor, in section 21, applies to all persons enumerated in section 1. This conclusion is further supported by the provision of section 16, that cities and towns may provide implements, etc., "for the employment of inmates" of workhouses, and by the provision of section 1, above quoted, that "a city or town may erect or provide a workhouse . . . for the *employment* . . . of indigent persons."

Very truly yours,

HERBERT PARKER, *Attorney-General*.

Great Ponds — Sources of Water Supply — Rules and Regulations of State Board of Health — Commissioners of Fisheries and Game — Duty to stock with Food Fish.

Rules and regulations established by the State Board of Health under the provisions of R. L., c. 75, § 113, "to prevent the pollution and to secure the sanitary protection of all such waters as are used as sources of water supply," are police regulations, and, in the case of a great pond so used, will limit and control the right of the public to the use thereof for boating, fishing or other like purposes, so far as such use by the public is inconsistent with the use of such pond as a source of water supply.

Where rules and regulations established by the State Board of Health under the provisions of R. L., c. 75, § 113, relating to a great pond, used as a source of water supply, forbid to the public fishing, boating or bathing therein or taking ice therefrom, the provisions of R. L., c. 91, § 19, directing the Commissioners of Fisheries and Game, upon petition duly made as prescribed, to cause the waters of any great pond to be stocked with food fish, and to make reasonable regulations relative to the fishing therein, is not applicable, and such commissioners are not required to act thereunder.

Nov. 25, 1904.

HON. JOSEPH W. COLLINS, *Chairman, Commissioners of Fisheries and Game.*

DEAR SIR: — You have required my opinion upon the effect which certain rules and regulations made by the State Board of Health under R. L., c. 75, § 113, may have upon the duty of the

fish and game commission, under the provisions of R. L., c. 91, § 19.

R. L., c. 75, § 112, is as follows:—

The state board of health shall have the general oversight and care of all inland waters and of all streams and ponds used by any city, town or public institution or by any water or ice company in this commonwealth as sources of water supply and of all springs, streams and water courses tributary thereto. It shall be provided with maps, plans and documents suitable for such purposes and shall keep records of all its transactions relative thereto.

Section 113 reads:—

Said board may cause examinations of such waters to be made to ascertain their purity and fitness for domestic use or their liability to impair the interests of the public or of persons lawfully using them or to imperil the public health. It may make rules and regulations to prevent the pollution and to secure the sanitary protection, of all such waters as are used as sources of water supply.

R. L., c. 91, § 19, provides that:—

The commissioners, upon the petition of the mayor and aldermen of a city or of the selectmen of a town within which a great pond or a portion thereof is situated, or of thirty or more inhabitants thereof, shall cause the waters of such pond to be stocked with such food fish as they judge to be best suited to such waters. They shall thereupon prescribe, for a period not exceeding three years, such reasonable regulations relative to the fishing in such ponds and their tributaries, with such penalties, not exceeding twenty dollars for one offence, as they deem to be for the public interest, and shall cause such regulations to be enforced. Five hundred dollars shall be annually appropriated by the commonwealth to carry out the provisions of this section.

This section was amended by St. 1903, c. 274, which authorized the commission to restock such ponds with food fish.

The facts submitted in your communication are applicable to North Watuppa Pond and its tributaries, which is used by the city of Fall River as a source of water supply.

Acting under the authority of R. L., c. 75, § 113, the State Board of Health has made certain rules and regulations governing North Watuppa Pond and its tributaries, of which only section 14 is material to the present question.

14. No person shall bathe in, and no person shall, unless permitted by a special regulation or by a written permit of the Watuppa water board of the city of Fall River, fish in, or send, drive or put any animal into North Watuppa Pond, so called, said pond being in the city of Fall

River and the town of Westport and used by said city as a source of water supply. No person other than a member of said Watuppa water board, its officers, agents or employees, or public officers whose duties may so require, shall, unless so permitted by regulation or permit of said Board, enter or go, in any boat, skiff, raft or other contrivance, on or upon the water of said pond, nor shall enter or go upon, or drive any animal upon, the ice of said pond.

Your letter also states that the board of health for the city of Fall River has also established rules and regulations relating to North Watuppa Pond, in substance like those above quoted; but inasmuch as it is the clear intendment of R. L., c. 75, §§ 112 to 130, to place the entire regulation of sources of water supply within the sole jurisdiction of the State Board of Health, I do not regard the local regulations referred to as material upon the matter of your inquiry. It is true that local boards may still control and abate nuisances which may be found within their jurisdiction and upon or adjacent to great ponds, whether or not such ponds are used as sources of water supply (see *Stone v. Heath*, 179 Mass. 388); but there is no statutory authority for the establishment by them of any permanent rules or regulations relating to sources of water supply. Such regulations, therefore, can have no effect upon the duties of the fish and game commission.

The power of the State Board of Health to make rules and regulations is conferred in order "to prevent the pollution and to secure the sanitary protection" of great ponds which are used as sources of water supply. This is a police regulation, and in so far as such rules and regulations are necessary for the preservation of the purity of the water, they will control the provisions of general statutes regulating the rights of the public in great ponds. On the other hand, the fact that a great pond has been taken as a source of water supply does not in and of itself necessarily deprive the public of the right of fishing, or, indeed, of any other right which may be exercised without interfering with the use of the pond as a source of water supply. See *Rockport v. Webster*, 174 Mass. 385; *Opinion of Attorney-General*, Dec. 6, 1900, *Attorney-General's Report*, 1900, p. 111.

It must be assumed, therefore, that the rules and regulations made by the State Board of Health under authority of R. L., c. 75, § 113, were based upon some finding or adjudication by such board that the use of the waters so regulated by the public for boating, fishing or taking ice, is or is likely to become a source of pollution and an injury to the water taken therefrom for the purposes of water supply, in which case the rules and regulations are authorized and are binding upon the public.

It remains to consider the effect of this rule or regulation upon R. L., c. 91, § 19. This statute is mandatory and imposes a duty upon the Commissioners of Fisheries and Game to stock the waters of a great pond whenever a petition of the prescribed character is addressed to them; yet, if the requirement of the section is absolute, it would follow, in the case of North Watuppa Pond, that upon petition they would be required to stock such pond without the authority to use a boat, if a boat were necessary, in distributing the fish, and the petitioners would not be permitted to derive any benefit therefrom unless the permission of the Watuppa water board of the city of Fall River was obtained. Moreover, it is within the bounds of possibility that at any time the State Board of Health may absolutely forbid fishing and boating, and thus render the operation of stocking such pond not only useless to the public, but, conceivably, injurious to the waters of the pond as a source of water supply.

In view of these contradictions it seems to me impossible to hold that any duty under R. L., c. 91, § 19, rests upon your commission to stock a pond used as a source of water supply, and upon the public enjoyment of which rules and regulations of the State Board of Health similar to those under consideration have been imposed. In other words, a great pond which is set apart as a source of water supply is, in a measure, withdrawn from the status of a great pond, and all public rights attaching thereto are subordinated to the single use to which the Legislature has devoted it. It is true that to a limited extent other public rights therein may be still exercised, but the jurisdiction of the fish and game commission is so seriously affected that, in my opinion, the mandatory language of section 19 would not be applicable, and the commission must be permitted to use its discretion in determining whether or not, in consideration of the existing rules and regulations of the State Board of Health, it is advisable or proper to comply with a petition for stocking such a great pond.

Very truly yours,

HERBERT PARKER, *Attorney-General.*

LIST OF CASES

IN WHICH THE

ATTORNEY-GENERAL

HAS APPEARED

DURING THE YEAR 1904.

INFORMATIONS.

1. AT THE RELATION OF THE TREASURER AND RECEIVER-GENERAL.

(a) For the non-payment of corporation taxes for the year 1903, informations were brought against the —

- A. F. Stowe Manufacturing Company. Tax paid and information dismissed.
- A. W. Dunton Printing Company. Tax paid and information dismissed.
- American Collection Agency. Enjoined.
- American Cultivator Publishing Company. Tax paid and information dismissed.
- Apsley Rubber Company. Tax paid and information dismissed.
- Austin & Winslow-Gallagher Express Company. Tax paid and information dismissed.
- B. L. Bragg Company. Tax paid and information dismissed.
- Bankers' Investment Company. Information dismissed.
- Blue Hill Granite Company. Pending.
- Boston & Haverhill Despatch Company. Tax paid and information dismissed.
- Boston Co-operative Cloak Manufacturing Company. Enjoined.
- Boston Cycle and Sundry Company. Tax paid and information dismissed.
- Boston Embossing and Tape Company. Enjoined.
- Boston Stitching and Plaiting Company. Tax paid and information dismissed.
- Boston Traveller Company. Tax paid and information dismissed.
- Bristol County Street Railway Company. Pending.
- Bush Market Company. Enjoined.
- Butterfield Gold Mining and Milling Company. Enjoined.
- Chelsea Express Despatch Company. Tax paid and information dismissed.
- Concord & Boston Street Railway Company. Tax paid and information dismissed.
- Concord, Maynard & Hudson Street Railway Company. Tax paid and information dismissed.
- Craig & Craig Company. Tax paid and information dismissed.

- Cunningham Lumber Company. Tax paid and information dismissed.
- Dane & Washburn Company. Tax paid and information dismissed.
- Davis & Buxton Stamping Company. Tax paid and information dismissed.
- Electric Storage Battery Company. Pending.
- Empire Shoe Company. Enjoined.
- Francis H. Drew Company. Enjoined.
- French Canadian Co-operative Association. Enjoined.
- George P. Bingham Company. Tax paid and information dismissed.
- Graham Shoe Company. Tax paid and information dismissed.
- H. B. Stevens Company. Enjoined.
- H. L. Aldrich Company. Pending.
- Hampshire & Worcester Street Railway Company. Tax (1903) paid and information dismissed.
- Hampshire & Worcester Street Railway Company. Pending.
- Holyoke Thread Company. Tax paid and information dismissed.
- Household Furniture Company. Enjoined.
- International Jupiter Steel Company. Enjoined.
- J. P. & W. H. Emond, Incorporated. Tax paid and information dismissed.
- J. W. Calnan Company. Tax paid and information dismissed.
- Kimball Brothers Company. Tax abated and information dismissed.
- Lowell & Boston Street Railway Company. Pending.
- Lynn Ice Company. Tax paid and information dismissed.
- Massachusetts Brick Company. Tax paid and information dismissed.
- Medfield & Medway Street Railway Company. Tax paid and information dismissed.
- Metropolitan Bolt Company. Tax paid and information dismissed.
- Middlesex Real Estate Association of Cambridge. Tax paid and information dismissed.
- Mutual Mail Order Company. Tax paid and information dismissed.
- National Finance Company. Tax paid and information dismissed.
- New England Electric Railroad Construction Company. Enjoined.
- Norfolk Western Street Railway Company. Tax (1902) paid and information dismissed.
- Olympic Amusement Company. Enjoined.
- People's Ice Company of Worcester. Tax paid and information dismissed.

- Press Clipping Bureau. Tax paid and information dismissed.
Randall-Faichney Company. Tax paid and information dismissed.
Seal & Smith Company. Enjoined.
Sevigne Bread Wrapper Company. Enjoined.
Shady Hill Nursery Company. Tax paid and information dismissed.
Sprague Car Appliance Company. Enjoined.
Springfield Construction Company. Tax paid and information dismissed.
Spy Company. Tax paid and information dismissed.
Suffolk Towboat Company. Tax paid and information dismissed.
United States Credit Company. Tax paid and information dismissed.
United States Garbage Reduction Company. Tax paid and information dismissed.
Weymouth Seam-face Granite Company. Tax paid and information dismissed.
William Allen & Sons Company. Tax paid and information dismissed.
Wm. Bourne & Sons Piano Company. Tax paid and information dismissed.
Worcester Umbrella Company. Tax paid and information dismissed.
Yam Leather Company. Enjoined.

(b) For failure to file the tax return for the year 1904, required by St. 1903, c. 437, § 48, informations were brought against the —

- A. F. Stowe Manufacturing Company. Enjoined.
A. G. Moore Company. Return filed and information dismissed.
Altamonte Springs Company. Return filed and information dismissed.
American Machine Manufacturing Company. Return filed and information dismissed.
Amesbury Opera House Company. Return filed and information dismissed.
Applied Arts Guild Company. Return filed and information dismissed.
Berkshire Tack Company. Return filed and information dismissed.
Boston Cycle and Sundry Company. Return filed and information dismissed.
Chino Park Amusement Company. Pending.
Coates Clipper Manufacturing Company. Return filed and information dismissed.

- Colonial Theatre Company. Enjoined.
- Commonwealth Hygienic Ice Company. Pending.
- Consolidated Law Cabinet. Return filed and information dismissed.
- Douglass Hotel Company. Enjoined.
- Electric Cable Joint Company. Return filed and information dismissed.
- Erudite Press. Return filed and information dismissed.
- F. S. Smith Shoe Company. Pending.
- H. E. Webster Company. Return filed and information dismissed.
- Havana Auto Company. Enjoined.
- Hero Cough Syrup Company. Information dismissed.
- Hill & Proctor Company. Enjoined.
- Home Science Publishing Company. Unable to get service.
- Hoyt L. Conary Company. Enjoined.
- International Confectionery and Manufacturing Company. Unable to get service.
- J. A. Glass Company. Information dismissed.
- J. P. & W. H. Emond, Incorporated. Return filed and information dismissed.
- John C. DeLaney Moulding Company. Return filed and information dismissed.
- John S. Flynn Company. Information dismissed.
- L. A. Ryan Company. Return filed and information dismissed.
- Lee Process Bakery and Lunch Company. Pending.
- Martha's Vineyard Electric Street and Power Company. Return filed and information dismissed.
- Martha's Vineyard Street Railway Company. Return filed and information dismissed.
- Massachusetts Guarantee Company. In hands of receiver.
- Messervy Ice Cream and Confectionery Company. Pending.
- Modern Shoe Repairing Company. Return filed and information dismissed.
- Morrison Grocery Company. Return filed and information dismissed.
- New England Manufacturers' Association. Enjoined.
- New England Manufacturing Company. Return filed and information dismissed.
- Nute-Hallett Company, Incorporated. Return filed and information dismissed.
- O. T. Rogers Granite Company. Information dismissed.
- Pean Medical Company. Return filed and information dismissed.
- Pearsons Drug Company. Return filed and information dismissed.
- Pilgrim Iron Foundry Company. Information dismissed.

Play Publishing Corporation. Pending.
Randall-Faichney Company. Return filed and information dismissed.
Royal Tailoring Company. Information dismissed.
South End Hardware Company. Pending.
Springfield Construction Company. Return filed and information dismissed.
Templeton Street Railway Company. Return filed and information dismissed.
Thomas Pattison Company. Unable to get service.
Traveller Publishing Company. Information dismissed.
Unexcelled Pen Company. Enjoined.
United Bakers' and Grocers' Association. Pending.
W. K. Farrington Press. Return filed and information dismissed.
West End Baking Company. Enjoined.
Weymouth Seam-face Granite Company. Return filed and information dismissed.
Worcester Automobile Company. Return filed and information dismissed.

2. AT THE RELATION OF THE COMMISSIONER OF CORPORATIONS.

For failure to file the certificate of condition for the year 1904, required by St. 1903, c. 437, §§ 45, 66.

Acme Road Machinery Company. Certificate filed and information dismissed.
American Citizen Company. Certificate filed and information dismissed.
Atlas Fireproofing Company. Certificate filed and information dismissed.
Aztec Gold and Copper Mining Company. Certificate filed and information dismissed.
Bay State Shoe and Leather Company. Certificate filed and information dismissed.
Beacon Manufacturing Company. Certificate filed and information dismissed.
Beacon Publishing Company. Certificate filed and information dismissed.
Block Plant Electric Light Company. Certificate filed and information dismissed.
Boston Leasehold Company. Enjoined.
Bridgewater Electric Company. Certificate filed and information dismissed.
Building Trades Credit Agency. Information dismissed.
Burrows Lighting and Heating Company of America. Enjoined.

- Cambridge Knitting Mills. Certificate filed and information dismissed.
- Campello Leather Company. Certificate filed and information dismissed.
- Cape Ann Machine Company. Certificate filed and information dismissed.
- Columbia Specialty Company. Certificate filed and information dismissed.
- Consolidated Law Cabinet. Certificate filed and information dismissed.
- Dillon Machine Company. Certificate filed and information dismissed.
- Doctor Ray Medicine Company. Enjoined.
- Electric Storage Battery. Pending.
- Exposition Amusement Company. Certificate filed and information dismissed.
- Exposition Amusement Company. Pending.
- Fisher-Churchill Company. Certificate filed and information dismissed.
- Franklin Park Land and Improvement Company. Enjoined.
- Frederick J. Quinby Company. Certificate filed and information dismissed.
- Golden King Mining and Investment Company. Information dismissed.
- Greenfield Recorder Company. Certificate filed and information dismissed.
- *Guatemala Investment and Mining Company. Information dismissed.
- Hampden Hotel Company. Certificate filed and information dismissed.
- Hanover Printing Company. Certificate filed and information dismissed.
- Hill & Proctor Company. Enjoined.
- Holmes Beef and Provision Company. Certificate filed and information dismissed.
- Inter City Umbrella Renting Company. Enjoined.
- J. H. Dalton Company. Pending.
- J. J. Cuddihy Stone Company. Certificate filed and information dismissed.
- Jefferson, Taylor & Walkup Company. Enjoined.
- Jewett Piano Company. Enjoined.
- L. E. Knott Apparatus Company. Certificate filed and information dismissed.

- L. J. Richards Company. Certificate filed and information dismissed.
- Lawrence Baseball Association. Certificate filed and information dismissed.
- Leicester Water Power Company. Certificate filed and information dismissed.
- Marlier & Company, Limited. Enjoined.
- Mining Bureau Publishing Company. Enjoined.
- Morrill Brothers Company. Enjoined.
- Newburyport Herald Company. Certificate filed and information dismissed.
- New England Electric Manufacturing Company. Unable to get service.
- New England Manufacturing Company. Certificate filed and information dismissed.
- Page Electric Company. Certificate filed and information dismissed.
- Page Electric Company. Certificate filed and information dismissed.
- People's Ice Company of Worcester. Certificate filed and information dismissed.
- Plymouth Stove Foundry Company. Enjoined.
- Quinsigamond Lake Steamboat Company. Certificate filed and information dismissed.
- R. H. Long Shoe Manufacturing Company. Certificate filed and information dismissed.
- Randall-Faichney Company. Certificate filed and information dismissed.
- Revere House Lessees Company. Enjoined.
- Robbins Spring Water Company. Certificate filed and information dismissed.
- Rotary Motor Vehicle Company. Certificate filed and information dismissed.
- S. A. Ryan Company. Certificate filed and information dismissed.
- Sanitary Manufacturing Company. Certificate filed and information dismissed.
- Shady Hill Nursery Company. Certificate filed and information dismissed.
- Sheldon Brothers Company. Certificate filed and information dismissed.
- South End Hardware Company. Pending.
- Standard Fishing Rod Company. Certificate filed and information dismissed.

Weymouth Light and Power Company. Certificate filed and information dismissed.

Weymouth Water Power Company. Certificate filed and information dismissed.

3. AT THE RELATION OF PRIVATE PERSONS.

Attorney-General *ex rel.* v. Vineyard Grove Company. Petition for use of name in an information for an injunction restraining the said company from an alleged interference with the rights of the public in a sea beach, and ordering the removal of structures causing such alleged interference. Henry S. Dewey appointed master. Pending.

Attorney-General v. Onset Bay Grove Association. Information in the nature of *quo warranto* to abate a public nuisance. Referred to Warren A. Reed, auditor. Pending.

Attorney-General *ex rel.* Samuel E. Hull *et als.*, Selectmen of Millbury, v. Washburn & Moen Manufacturing Company. Information in the nature of *quo warranto* to abate a nuisance. Pending.

Attorney-General *ex rel.* v. Fiskdale Mills. Petition for an injunction to restrain the respondent from interfering with the waters of Alum Pond, a great pond. Pending.

Attorney-General *ex rel.* v. John F. Hutchinson *et al.* Information in the nature of *quo warranto* to try the title of the respondent to the office of selectman of Lexington. Final decree and judgment for petitioner.

Attorney-General *ex rel.* v. Mayor and City Council of Cambridge. Petition for mandamus to compel the respondents to discharge the duties imposed upon them by law. Alternative writ of mandamus issued.

Attorney-General *ex rel.* v. Patrick A. Collins *et al.* Petition for a writ of mandamus to compel city of Boston to construct a street to a width of forty feet. Petition dismissed.

Attorney-General *ex rel.* v. Joseph M. Reed. Information in the nature of *quo warranto* filed in the Supreme Judicial Court for the county of Essex to try the respondent's title to the office of school committeeman in the town of Rockport. Use of name granted. Pending.

Attorney-General *ex rel.* v. Old Colony Street Railway Company. Petition for use of name of Attorney-General to restrain the respondent corporation from laying tracks in certain streets in Taunton. Use of name granted. Pending.

4. APPLICATIONS REFUSED AND OTHERWISE DISPOSED OF.

Attorney-General *v.* Joseph N. Peterson *et al.* Information in nature of *quo warranto* to try the title of the respondents to the office of sewer commissioners for the city of Salem. Use of name denied.

Martin F. Cavanagh *v.* Mayor of Boston and Fire Commissioner. Petition in the Supreme Judicial Court for the county of Suffolk for the use of the name of the Attorney-General for a writ of mandamus. Use of name denied.

GRADE CROSSINGS.

Notices have been served upon this department of the filing of the following petitions for the appointment of special commissioners for the abolition of grade crossings :—

Barnstable County.

Bourne, Selectmen of, petitioners. Petition for abolition of Bourne Neck crossing. James E. Cotter, Eben D. Crocker and Rufus A. Soule appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's second report filed. Pending.

Harwich. Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of Main Street crossing. Alpheus Sanford, Prescott Keyes and Harry Southworth appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's report filed. Pending.

Wellfleet and Eastham. Directors of Old Colony Railroad Company, petitioners. Petition for abolition of certain grade crossings in Wellfleet and Eastham. George L. Rogers, Louis A. Frothingham and Franz H. Krebs appointed commissioners. Commissioners' report filed. Wade Keyes appointed auditor. Auditor's second report filed. Pending.

Berkshire County.

Adams. Hoosac Valley Street Railway Company, petitioners. Petition for abolition of Commercial Street crossing in Adams. George W. Wiggin, W. W. McClench and Edward K. Turner appointed commissioners. Pending.

Great Barrington, Selectmen of, petitioners. Petition for the abolition of a grade crossing in the village of Housatonic in said town. John J. Flaherty, Edmund K. Turner and Stephen S. Taft appointed commissioners. Pending.

Hinsdale, Selectmen of, and Directors of Boston & Albany Railroad Company, petitioners. Petition for abolition of Bulard's Church Street and Pierce's grade crossings in Hinsdale. Thomas W. Kennefick, William Sullivan and Charles M. Ludden appointed commissioners. Commissioners' report

- filed. Ralph H. Ellis appointed auditor. Auditor's second report filed. Pending.
- Lee, Selectmen of, petitioners. Petition for abolition of Langdon's crossing in Lee. Wade Keyes, Thomas W. Kennefick and Luther Dean appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Pending.
- Lenox, Selectmen of, petitioners. Petition for abolition of grade crossings in Lenox. Fred Joy, Louis A. Frothingham and Edmund K. Turner appointed commissioners. Commissioners' report filed. J. Mott Hallowell appointed auditor.
- North Adams. Hoosac Valley Street Railway Company, petitioners. Petition for abolition of Main Street crossing, known as Braytonville crossing, in North Adams. Edmund K. Turner, W. W. McClench and Joseph P. Magenis appointed commissioners. Pending.
- Pittsfield, Mayor and Aldermen of, and Directors of Boston & Albany Railroad Company, petitioners. Petition for the abolition of Hubbard and Gates avenues and Jason Street crossings in Pittsfield. Thomas W. Kennefick, William Sullivan and Charles M. Ludden appointed commissioners. Commissioners' report filed. Patrick J. Ashe appointed auditor. Auditor's first report filed. Pending.
- Pittsfield, Mayor and Aldermen of, petitioners. Petition for abolition of Merrill crossing in Pittsfield. Thomas W. Kennefick, Frederick L. Green and Edmund K. Turner appointed commissioners. Pending.
- Pittsfield, Mayor and Aldermen of, petitioners. Petition for abolition of Holmes Road crossing. William W. McClench, Charles N. Clark and Edmund K. Turner appointed commissioners. Pending.
- Richmond and West Stockbridge, Selectmen of, petitioners. Joint petition for abolition of Griffin and Arnold's crossings in Richmond and West Stockbridge. Joseph Bennett, Charles Almy and John C. Crosby appointed commissioners. Clifford Brigham, auditor. Auditor's first report filed. Pending.
- Stockbridge, Selectmen of, petitioners. Petition for the abolition of "River Road" crossing in Stockbridge. J. B. Carroll, E. B. Bishop and Luther Dean appointed commissioners. Pending.
- West Stockbridge. Directors of New York, New Haven & Hartford Railroad Company *et al.*, petitioners. Petition for abolition of State line crossing in West Stockbridge. Richard W. Irwin, Henry W. Ashley and Edmund K. Turner appointed commissioners. Commissioners' report filed. Frank H. Cande appointed auditor. Auditor's first report filed. Pending.

West Stockbridge. Directors of New York, New Haven & Hartford Railroad Company *et al.*, petitioners. Petition for abolition of Potter's crossing in West Stockbridge. Richard W. Irwin, Henry W. Ashley and Edmund K. Turner appointed commissioners. Commissioners' report filed. F. H. Cande appointed auditor. Auditor's first report filed. Pending.

Williamstown. Hoosac Valley Street Railway Company, petitioners. Petition for the abolition of a grade crossing in Williamstown, near the Fitchburg Railroad station. Edmund K. Turner, W. W. McClench and Charles N. Clark appointed commissioners. Pending.

Bristol County.

Attleborough. Directors of Old Colony Railroad, petitioners. Petition for abolition of South Main Street crossing in Attleborough. George W. Wiggin, A. P. Martin and C. A. Allen appointed commissioners. Commissioners' report filed. C. H. Cooper appointed auditor. Auditor's third report filed. Pending.

Attleborough. Selectmen of, petitioners. Petition for abolition of West Street, North Main Street and other crossings in Attleborough. James R. Dunbar, H. L. Parker and William Jackson appointed commissioners. Commissioners' report filed. Pending.

Easton. Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of crossing at Eastondale. James E. Cotter, Wm. Rankin and Chas. D. Bray appointed commissioners. Fred Joy appointed auditor. Auditor's fourth report filed. Pending.

Fall River, Mayor and Aldermen of, petitioners. Petition for abolition of Brownell Street crossing and other crossings in Fall River. John Q. A. Brackett, Samuel N. Aldrich and Charles A. Allen appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's thirteenth report filed. Pending.

New Bedford, Mayor and Aldermen of, petitioners. Petition for abolition of certain grade crossings in New Bedford. George F. Richardson, Horatio G. Herrick and Wm. Wheeler appointed commissioners. Pending.

Taunton, Mayor and Aldermen of, petitioners. Petition for abolition of grade crossings in Taunton. William B. French, A. C. Southworth and Edward B. Bishop appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's first report filed. Pending.

Essex County.

- Haverhill, Mayor and Aldermen of, petitioners. Petition for abolition of Washington Street and other crossings in Haverhill. George W. Wiggin, William B. French and Edmund K. Turner appointed commissioners. Pending.
- Ipswich. Directors of Boston & Maine Railroad Company, petitioners. Petition for abolition of Underhill crossing in Ipswich. George W. Wiggin, A. D. Bosson and Edmund K. Turner appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's first report filed. Pending.
- Ipswich, Selectmen of, petitioners. Petition for abolition of High Street crossing. Geo. W. Wiggin, Edmund K. Turner and William F. Dana appointed commissioners. Pending.
- Lynn, Mayor and Aldermen of, petitioners. Petition for abolition of Summer Street and other crossings on Saugus branch of Boston & Maine Railroad and Market Street and other crossings on main line. George W. Wiggin, Edgar R. Champ- lin and Edmund K. Turner appointed commissioners. Pending.
- Manchester. Directors of Boston & Maine Railroad Company, petitioners. Petition for the abolition of the Summer Street crossing in Manchester. George P. Sanger, Edward B. Bishop and Chas. A. Putnam appointed commissioners. Commissioners' report filed. Andrew Fiske appointed auditor. Auditor's first report filed. Pending.
- Swampscott, Selectmen of, petitioners. Petition for the abolition of Burrill Street crossing. Henry Wardwell, Charles W. Gay and Edmund K. Turner appointed commissioners. Commissioners' report filed. Charles A. Sayward appointed auditor. Pending.

Franklin County.

- Deerfield, Selectmen of, petitioners. Petition for abolition of Sprouts crossing on Main Street, Deerfield. Timothy G. Spaulding, Edmund K. Turner and Franklin T. Hammond appointed commissioners. Commissioners' report filed. Pending.
- Greenfield, Selectmen of, petitioners. Petition for the abolition of Russell Street crossing in Greenfield. Edmund K. Turner, Walter P. Hall and Fred D. Stanley appointed commissioners. Pending.
- Greenfield, Selectmen of, petitioners. Petition for the abolition of Allen Street crossing in Greenfield. Edmund K. Turner, Walter P. Hall and Fred D. Stanley appointed commissioners. Pending.

Northfield, Selectmen of, petitioners. Petition for abolition of River Street crossing in Northfield. Alpheus Sanford, Charles W. Hazelton and Newell D. Winter appointed commissioners. Commissioners' report filed. Dana Malone appointed auditor. Auditor's first and supplemental reports filed. Pending.

Hampden County.

Chester, Selectmen of, and Directors of Boston & Albany Railroad Company, petitioners. Petition for abolition of Huntington Road in Chester. Charles E. Hibbard, William Sullivan and Wm. P. Martin appointed commissioners. Commissioners' report filed. Ralph W. Ellis appointed auditor. Auditor's first report filed. Pending.

Chester, Selectmen of, and Directors of Boston & Albany Railroad Company, petitioners. Petition for abolition of Huntington Street and White Chop crossing in Chester. Charles E. Hibbard, William Sullivan and William P. Martin appointed commissioners. Thos. W. Kennefick appointed auditor. Auditor's first report filed. Pending.

Chicopee, Mayor and Aldermen of, petitioners. Petition for abolition of Plainfield and Exchange Street crossings and other crossings in Chicopee. Geo. W. Wiggin, Edmund K. Turner and Fred D. Stanley appointed commissioners. Commissioners' report filed. Timothy G. Spaulding appointed auditor. Auditor's fourth report filed. Pending.

Palmer, Selectmen of, petitioners. Petition for abolition of Palmer and Belchertown Road crossing in Palmer. T. M. Brown, Chas. E. Hibbard and Henry G. Taft appointed commissioners. Commissioners' report filed. Stephen S. Taft appointed auditor. Auditor's first report filed. Pending.

Palmer, Selectmen of, petitioners. Petition for abolition of Burley's crossing in Palmer. Pending.

Palmer, Selectmen of, petitioners. Petition for abolition of Springfield Road crossing, otherwise known as the Wire Mill crossing, in Palmer. William Turtle, Frederick L. Greene and John W. Mason appointed commissioners. Commissioners' report filed. Pending.

Springfield, Mayor and Aldermen of, petitioners. Petition for abolition of Bay State Road and other crossings in Springfield. George W. Richardson, Marshall Wilcox and George W. Wiggin appointed commissioners. Commissioners' report filed. Charles W. Bosworth appointed auditor. Auditor's first report filed. Pending.

- Springfield, Mayor and Aldermen of, petitioners. Petition for abolition of Pasco Road crossing in Springfield. Joseph Bennett, Samuel M. Cook and John A. Aiken appointed commissioners. Commissioners' report filed. L. E. Hitchcock appointed auditor. Auditor's first report filed. Pending.
- Springfield, Mayor and Aldermen of, petitioners. Petition for abolition of South End Bridge crossing in Springfield. John W. Corcoran, John J. Flaherty and George F. Swain appointed commissioners. Commissioners' report filed. Pending.
- Westfield, Selectmen of, petitioners. Petition for raising of bridge over Elm Street in Westfield. Thomas W. Proctor, John B. O'Donnell and Edmund K. Turner appointed commissioners. Commissioners' report filed. J. Mott Hallowell appointed auditor. Pending.
- Westfield, Selectmen of, petitioners. Petition for raising bridge over North Elm Street in Westfield. Geo. W. Wiggin, Frederick L. Greene and Edmund K. Turner appointed commissioners. Commissioners' report filed. Pending.
- Westfield. Boston & Albany Railroad Company, petitioners. Petition for abolition of Coburn's and Morse's crossings in Westfield. Charles M. Ludden, William Sullivan and Richard W. Irwin appointed commissioners. Commissioners' report filed. Ralph W. Ellis appointed auditor. Auditor's first report filed. Pending.
- Westfield, Selectmen of, petitioners. Petition for the abolition of North Elm Street crossing in Westfield. Charles E. Hibbard, Joseph Bennett and George W. Wiggin appointed commissioners. Commissioners' report filed. Ralph W. Ellis appointed auditor. Auditor's first report filed. Pending.

Hampshire County.

- Belchertown, Selectmen of, petitioners. Petition for abolition of Holyoke Road crossing in Belchertown. George W. Wiggin, Fred D. Stanley and Edmund K. Turner appointed commissioners. Commissioners' report filed. Stephen S. Taft appointed auditor. Auditor's first report filed. Pending.
- Belchertown, Selectmen of, petitioners. Petition for the abolition of Leache's crossing in Belchertown. Augustus W. Locke, George W. Johnson and Joseph Bennett appointed commissioners. Commissioners' report filed. William H. Clapp appointed auditor. Auditor's report filed. Pending.

Northampton. Directors of Connecticut River Railroad Company, petitioners. Petition for abolition of Lyman's crossing in Northampton. George W. Wiggin, Fred D. Stanley and Edmund K. Turner appointed commissioners. Commissioners' report filed. L. E. Hitchcock appointed auditor. Auditor's second report filed. Pending.

Northampton, Mayor and Aldermen of, petitioners. Petition for abolition of Laurel Park station crossing in Northampton. George W. Wiggin, Fred D. Stanley and Edmund K. Turner appointed commissioners. Commissioners' report filed. Arthur S. Kneil appointed auditor. Auditor's first report filed. Pending.

Northampton, Mayor and Aldermen of, petitioners. Petition for abolition of Grove Street and Earl Street crossings in Northampton. Frederick L. Greene, S. S. Taft and James M. Sickman appointed commissioners. Commissioners' report filed. William P. Hayes appointed auditor. Pending.

Ware. Selectmen of, petitioners. Petition for abolition of Gibbs crossing in Ware. George F. Tucker, George F. Kimball and Lawson Sibley appointed commissioners. Commissioners' report filed. John W. Mason appointed auditor. Pending.

Ware, Selectmen of, petitioners. Petition for abolition of Maple Street and Gilbertville Road crossings in Ware. Alpheus Sanford, Everett C. Bumpus and William W. McClench appointed commissioners. Commissioners' report filed. John W. Mason appointed auditor. Auditor's first report filed. Pending.

Middlesex County.

Acton, Selectmen of, petitioners. Petition for abolition of Great Road crossing in Acton. Benj. W. Wells, Howard M. Lane and William B. Sullivan appointed commissioners. Pending.

Acton, Selectmen of, petitioners. Petition for abolition of Maynard Road crossing in Acton. Edmund K. Turner, Edward F. Blodgett and Wade Keyes appointed commissioners. Pending.

Arlington, Selectmen of, petitioners. Petition for abolition of Grove Street crossing and other crossings in Arlington. Alpheus Sanford, Edmund K. Turner and S. Everett Tinkham appointed commissioners. Commissioners' report filed. Fred Joy appointed auditor. Auditor's third report filed. Pending.

Ayer, Selectmen of, petitioners. Petition for abolition of Main Street crossing in Ayer. S. K. Hamilton, Theodore C. Hurd and Edmund K. Turner appointed commissioners. Pending.

- Ayer, Selectmen of, petitioners. Petition for abolition of West Main and Park streets crossing in Ayer. Frank P. Goulding, Charles A. Allen and Anson D. Fessenden appointed commissioners. Commissioners' report filed. Theodore C. Hurd appointed auditor. Auditor's second report filed. Pending.
- Bedford, Selectmen of, petitioners. Petition for abolition of Concord Road crossing in Bedford. Fred D. Stanley, H. R. Coffin and Edmund K. Turner appointed commissioners. Commissioners' report filed. Theodore C. Hurd appointed auditor. First and final report of auditor filed.
- Belmont, Selectmen of, petitioners. Petition for abolition of Brighton Street, Concord Avenue and Trapelo Road crossings in Belmont. Pending. Theodore C. Hurd, Fred Joy and George F. Swain appointed commissioners. Pending.
- Cambridge. Directors of Boston & Maine Railroad Company, petitioners. Petition for abolition of Prison Point Street crossing in Cambridge. Henry S. Milton, Edward B. Bishop and Henry G. Taft appointed commissioners. Commissioners' report filed. Theodore C. Hurd appointed auditor. Auditor's third report filed. Pending.
- Chelmsford, Selectmen of, petitioners. Petition for abolition of Princeton Street crossing in Chelmsford. Edmund K. Turner, Frederick W. Dallinger and Charles F. Worcester appointed commissioners. Commissioners' report filed. W. C. Dillingham appointed auditor. Pending.
- Concord, Selectmen of, petitioners. Petition for abolition of Oliver Rice crossing and Hosmer's crossing in Concord. Theodore C. Hurd, William Sullivan and Percy G. Bolster appointed commissioners. Commissioners' report filed. Henry L. Parker appointed auditor. Auditor's first report filed. Pending.
- Everett. Directors of Boston & Maine Railroad Company, petitioners. Petition for abolition of crossings at Broadway and Main Street in Everett. George W. Wiggin, Edmund K. Turner and Robert S. Gray appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's fifth report filed. Pending.
- Lexington, Selectmen of, petitioners. Petition for abolition of Grant Street crossing in Lexington. Alpheus Sanford, Edmund K. Turner and S. Everett Tinkham appointed commissioners. Commissioners' report filed. Pending.
- Lowell, Mayor and Aldermen of, petitioners. Petition for abolition of Middlesex and Thorndike streets crossings. Pending.
- Lowell, Mayor and Aldermen of, petitioners. Petition for abolition of Boston Road and Plain Street crossings. Pending.

- Lowell, Mayor and Aldermen of, petitioners. Petition for abolition of School and Walker streets crossings. Pending.
- Lowell, Mayor and Aldermen of, petitioners. Petition for abolition of Lincoln Street crossing. Pending.
- Lowell, Mayor and Aldermen of, petitioners. Petition for abolition of Middlesex, Thorndike and Lincoln streets and Boston Road grade crossings. Pending.
- Lowell, Mayor and Aldermen of, petitioners. Petition for abolition of Pawtucket Street crossing and other crossings in Lowell. George W. Wiggin, John W. Ellis and Samuel L. Minot appointed commissioners. Commissioners' report filed. P. H. Cooney appointed auditor. Auditor's second report filed. Pending.
- Malden. Directors of Boston & Maine Railroad Company, petitioners. Petition for abolition of Medford Street and other crossings in Malden. Geo. W. Wiggin, Robert O. Harris and Edmund K. Turner appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's second report filed. Pending.
- Malden, Mayor and Aldermen of, petitioners. Petition for abolition of Pleasant and Winter streets crossing in Malden. Pending.
- Marlborough, Mayor and Aldermen of, petitioners. Petition for abolition of Hudson Street crossing in Marlborough. Walter Adams, Charles A. Allen and Alpheus Sanford appointed commissioners. Commissioners' report filed. Pending.
- Natick. Directors of Boston & Albany Railroad Company, petitioners. Petition for abolition of Marion Street crossing and other crossings in Natick. George W. Wiggin, Larkin T. Trull and Joseph Bennett appointed commissioners. Commissioners' report filed. Theodore C. Hurd appointed auditor. Auditor's seventh report filed. Pending.
- Natick. Boston & Worcester Street Railway Company, petitioners. Petition for alteration of Worcester Street crossing in Natick. Geo. W. Wiggin, Edmund K. Turner and Larkin T. Trull appointed commissioners. Commissioners' report filed. Theo. C. Hurd appointed auditor. Auditor's first report filed. Pending.
- Newton, Mayor and Aldermen of, petitioners. Petition for the abolition of Concord Street and Pine Grove Avenue crossings in Newton. George W. Wiggin, T. C. Mendenhall and Edmund K. Turner appointed commissioners. Pending.
- Newton, Mayor and Aldermen of, petitioners. Petition for abolition of Oak Street and Linden Street crossings in Newton. Pending.

- Newton, Mayor and Aldermen of, petitioners. Petition for the abolition of Glen Avenue and nine other crossings in Newton. Geo. W. Wiggin, T. C. Mendenhall and Edmund K. Turner appointed commissioners. Pending.
- North Reading, Selectmen of, petitioners. Petition for abolition of Main Street crossing in North Reading. Alpheus Sanford, George N. Poor and Louis M. Clark appointed commissioners. Report of commissioners filed. Pending.
- Somerville, Mayor and Aldermen of, petitioners. Petition for abolition of Park Street, Dane Street and Medford Street crossings in Somerville. Pending.
- Somerville, Mayor and Aldermen of, petitioners. Petition for abolition of Somerville Avenue grade crossing in Somerville. Pending.
- Wakefield, Selectmen of, petitioners. Petition for abolition of Hanson Street crossing in Wakefield. Pending.
- Waltham, Mayor and Aldermen of, petitioners. Petition for abolition of South Street crossing in Waltham. Geo. F. Swain, Arthur P. Rugg and Geo. A. Sanderson appointed commissioners. Pending.
- Waltham, Mayor and Aldermen of, petitioners. Petition for abolition of Moody Street, Main Street, Elm Street, River Street, Pine Street, Newton Street and Calvary Street crossings in Waltham. Arthur P. Rugg, William F. Dana and George F. Swain appointed commissioners. Pending.

Norfolk County.

- Braintree, Selectmen of, petitioners. Petition for the abolition of the Pearl street crossing at South Braintree. Pending.
- Brookline. Directors of Boston & Albany Railroad Company, petitioners. Petition for the abolition of Kerrigan Place crossing in Brookline. William Sullivan, Henry M. Hutchins and Wade Keyes appointed commissioners. Pending.
- Dedham. Directors of the Old Colony Railroad Company, petitioners. Petition for the abolition of River Street and Whiting Avenue crossings. Augustus P. Martin, Charles A. Allen and Fred Joy appointed commissioners. Commissioners' report filed. C. H. Cooper appointed auditor. Auditor's supplemental report filed. Pending.
- Dedham, Selectmen of, petitioners. Petition for the abolition of Eastern Avenue and Dwight Street crossings in Dedham. Alpheus Sanford, Charles Mills and J. Henry Reed appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Pending.

Dedham, Selectmen of, and Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petitions for abolition of East Street, Walnut Street and Vernon Street crossings in Dedham, consolidated with petitions to abolish Milton Street crossing in Hyde Park. Samuel N. Aldrich, E. B. Bishop and H. C. Southworth appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's twelfth report filed. Pending.

Hyde Park and Dedham, consolidated petitions. See Dedham.

Hyde Park, Selectmen of, petitioners. Petition for abolition of Fairmount Avenue and Bridge Street crossings in Hyde Park. Pending.

Medway, Selectmen of, petitioners. Petition for abolition of Village Street crossing in Medway. Arthur Lyman, George D. Burrage and Alpheus Sanford appointed commissioners. Commissioners' report filed. Edmund H. Talbot appointed auditor. Auditor's second report filed. Pending.

Milton, Selectmen of, petitioners. Petition for abolition of Central Avenue crossing in Milton. Pending.

Needham, Selectmen of, petitioners. Petition for abolition of Charles River Street crossing in Needham. Pending.

Norwood, Selectmen of, and Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of Chapel Street, Washington Street and Guild Street crossings in Norwood. Henry A. Wyman, James F. C. Hyde and Charles E. C. Breck appointed commissioners. Commissioners' report filed. Albert A. Avery appointed auditor. Auditor's seventh report filed. Pending.

Sharon, Selectmen of, petitioners. Petition for abolition of Depot Street crossing in Sharon. William B. Durant, Fred Joy and Charles D. Bray appointed commissioners. Pending.

Walpole, Selectmen of, petitioners. Petition for abolition of Oak Street crossing and other crossings in Walpole. Dana Malone, Edmund K. Turner and Henry A. Wyman appointed commissioners. Commissioners' report filed. H. L. Sheldon appointed auditor. Pending.

Plymouth County.

Abington. Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of Central Street crossing in Abington. Alpheus Sanford, Erastus Worthington, Jr., and Edward B. Bishop appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's second report filed. Pending.

- Hingham. Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of Rockland Street crossing in Hingham. Winfield S. Slocum, Alpheus Sanford and Henry C. Southworth appointed commissioners. Pending.
- Marshfield. Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of crossing near Marshfield station. Alpheus Sanford, J. Albert Brackett and Frank T. Daniels appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's first report filed. Pending.
- Middleborough, Selectmen of, petitioners. Petition for abolition of Centre Street, Grove Street and Main Street crossings in Middleborough. Alpheus Sanford, Edward B. Bishop and Samuel H. Hudson appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's fourth report filed. Pending.
- Scituate. Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of Water Street and Union Street crossings in Scituate. Arthur H. Wellman, Edmund K. Turner and Oscar A. Marden appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's second report filed. Pending.

Suffolk County.

- Boston. Directors of Old Colony Railroad Company, petitioners. Petition for abolition of Tremont Street crossing in Boston. Samuel N. Aldrich, H. C. Southworth and Edward B. Bishop appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's twenty-first report filed. Reported to full court on question of interest claimed by railroad company. Decree of Superior Court affirmed. Pending.
- Boston, Mayor and Aldermen of, petitioners. Petition for abolition of Dorchester Avenue crossing in Boston. F. N. Gillette, Charles S. Lilley and Charles Mills appointed commissioners. Commissioners' report filed. Fred Joy appointed auditor. Auditor's twenty-eighth report filed. Pending.
- Boston, Mayor and Aldermen of, petitioners. Petition for abolition of Austin Street, Cambridge Street and Perkins Street crossings in Charlestown. Henry S. Milton, Edward B. Bishop and Henry G. Taft appointed commissioners. Commissioners' report filed. Fred Joy appointed auditor. Auditor's sixth report filed. Pending.

- Boston. Directors of Old Colony Railroad Company, petitioners. Petition for abolition of Codman Street crossing in Boston. George W. Wiggin, Charles A. Allen and William M. Butler appointed commissioners. Commissioners' report filed. Henry S. Milton appointed auditor. Auditor's second report filed.
- Boston, Mayor and Aldermen of, petitioners. Petition for the abolition of the Essex Street crossing in Brighton. George W. Wiggin, William B. French and Winfield S. Slocum appointed commissioners. Pending.
- Boston, Mayor and Aldermen of, petitioners. Petition for abolition of Blue Hill Avenue and Oakland Street crossings in Boston. William B. French, Arthur H. Wellman and George A. Kimball appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's fourteenth report filed. Pending.
- Boston, Mayor and Aldermen of, petitioners. Petition for abolition of all crossings in East Boston. George W. Wiggin, William B. French and Edward B. Bishop appointed commissioners. Commissioners' report filed. Pending.
- Boston, Mayor and Aldermen of, petitioners. Petition for abolition of Congress Street crossing in Boston. George W. Wiggin, Edward B. Bishop and Charles A. Allen appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's twenty-third report filed. Pending.
- Revere, Selectmen of, petitioners. Petition for abolition of Winthrop Avenue crossing in Revere. George W. Wiggin, Everett C. Bumpus and Charles D. Bray appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's second report filed. Pending.

Worcester County.

- Auburn, Selectmen of, petitioners. Petition for abolition of Chapin's crossing in Auburn. Harvey N. Shepard, George K. Tufts and Charles A. Allen appointed commissioners. Commissioners' report filed. A. J. Bartholomew appointed auditor. Pending.
- Boylston, Selectmen of, petitioners. Petition for abolition of crossing over road between Boylston and Clinton. William B. Durant, Edward B. Bishop and O. W. Rugg appointed commissioners. Commissioners' report filed. Chas. R. Johnson appointed auditor. Auditor's report filed. Pending.
- Clinton, Selectmen of, petitioners. Petition for abolition of Sterling, Water, Main and Woodlawn streets crossings. Pending.

- Fitchburg, Mayor and Aldermen of, petitioners. Petition for abolition of Laurel Street crossing in Fitchburg. Frank P. Goulding, Charles A. Allen and Charles M. Thayer appointed commissioners. Commissioners' report filed. George S. Taft appointed auditor. Auditor's third report filed. Pending.
- Fitchburg, Mayor and Aldermen of, petitioners. Petition for abolition of Putnam Street crossing in Fitchburg. Frank P. Goulding, Charles A. Allen and Charles M. Thayer appointed commissioners. Commissioners' report filed. George S. Taft appointed auditor. Auditor's third report filed. Pending.
- Gardner, Selectmen of, petitioners. Petition for abolition of Union Street crossing in Gardner. Frank P. Goulding, Charles A. Allen and Franklin L. Waters appointed commissioners. Commissioners' report filed. Pending.
- Holden, Selectmen of, petitioners. Petition for abolition of Dawson's crossing and Cedar Swamp crossing in Holden. Charles A. Allen, Arthur P. Rugg and Henry G. Taft appointed commissioners. Commissioners' report filed. Pending.
- Hubbardston, Selectmen of, petitioners. Petition for abolition of Depot Road crossing in Hubbardston. Pending.
- Leominster, Selectmen of, petitioners. Petition for abolition of Water Street crossing. Pending.
- Leominster, Selectmen of, petitioners. Petition for abolition of Summer Street crossing. Pending.
- Leominster, Selectmen of, petitioners. Petition for the abolition of Mechanic Street crossing. Pending.
- Leominster, Selectmen of, petitioners. Petition for the abolition of Main Street crossing. Pending.
- Leominster, Selectmen of, petitioners. Petition for abolition of Lancaster Street crossing in Leominster. Alpheus Sanford, Charles A. Allen and Seth P. Smith appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's first report filed. Pending.
- Millbury, Selectmen of, and Selectmen of Sutton, consolidated petition for abolition of Daniels crossing in Millbury and Yellow House crossing in Sutton. James E. Cotter, Alpheus Sanford and Charles A. Allen appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's first report filed. Pending.
- Northborough, Selectmen of, petitioners. Petition for abolition of Westborough Hospital station crossing in Northborough. Thomas Post, William Wheeler and Alpheus Sanford appointed commissioners. Commissioners' report filed. Pending.

- Northbridge and Uxbridge, joint petition of Selectmen of. Petition for abolition of Whitin's station crossing. Alpheus Sanford, Edward B. Bishop and Harry C. Southworth appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's fourth report filed. Pending.
- Southborough, Selectmen of, petitioners. Petition for abolition of crossing on road from Southborough to Framingham. Pending.
- Southborough, Selectmen of, petitioners. Petition for abolition of crossing on road leading from Southborough to Hopkinton. George C. Travis, James W. McDonald and William Sullivan appointed commissioners. Commissioners' report filed. Theodore C. Hurd appointed auditor. Auditor's third report filed. Pending.
- Southborough, Selectmen of, petitioners. Petition for abolition of Main Street crossing at Fayville in Southborough. Pending.
- Sutton and Millbury, consolidated petition of Selectmen of both towns. See Millbury.
- Templeton, Selectmen of, petitioners. Petition for abolition of Baldwinsville crossing in Templeton. Charles Brimblecom, Charles A. Allen and Edward P. Chapin appointed commissioners. Commissioners' report filed. Henry L. Parker appointed auditor. Auditor's second report filed. Pending.
- Uxbridge. Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of grade crossings in Uxbridge. George W. Wiggin, Timothy G. Spaulding and Albert F. Noyes appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's fourth report filed. Pending.
- Warren. Directors of Boston & Albany Railroad Company, petitioners. Petition for abolition of South Street crossing in Warren. George W. Wiggin, Wm. L. Clark and Joseph Bennett appointed commissioners. Commissioners' report filed. William B. Harding appointed auditor. Auditor's second report filed. Pending.
- Westborough, Selectmen of, and Directors of Boston & Albany Railroad Company, petitioners. Petition for abolition of Main Street and Summer Street crossings in Westborough. George W. Wiggin, George N. Smalley and Joseph Bennett appointed commissioners. Commissioners' report filed. H. L. Parker appointed auditor. Auditor's third report filed. Pending.

- Worcester, Mayor and Aldermen of, petitioners. Petition for abolition of Grafton Street crossing and eight other crossings, including alterations of Union Station. James R. Dunbar, Henry P. Moulton and George F. Swain appointed commissioners. Pending.
- Worcester, Mayor and Aldermen of, petitioners. Petition for abolition of Hamilton Street crossing in Worcester. Augustus P. Martin, James D. Colt and Edmund K. Turner appointed commissioners. Commissioners' report filed. James A. Stiles appointed auditor. Auditor's report filed. Pending.
- Worcester. Directors of Boston & Albany Railroad Company, petitioners. Petition for abolition of Webster Street, Ludlow Street, Sutton Lane and Heard Street crossings in Worcester. Harvey N. Shepard, Frederick Brooks and Joseph S. Ludlam appointed commissioners. Commissioners' report filed. James A. Stiles appointed auditor. Auditor's amended second report filed. Pending.

The following cases have been brought for alleged land damages incurred in the alteration of grade crossings. The Commonwealth, being obliged under the statutes to pay at least twenty-five per cent. of the expenses incurred in the alteration of all grade crossings, has in all cases been made a party thereto.

- Ballentine *et al.* v. Town of Gardner. Superior Court, Worcester County. Pending.
- Boston *et als.* v. Boston Wharf Company. Superior Court, Suffolk County. Pending.
- Codman *et als.* v. New England Railroad Company *et als.* Superior Court, Suffolk County. Pending.
- Commonwealth v. Boston. Superior Court, Suffolk County. Pending.
- Connell v. Boston & Maine Railroad Company *et al.* Superior Court, Middlesex County. Pending.
- Dickinson *et al.* v. Fitchburg. Superior Court, Worcester County. Pending.
- Dolan, Ellen, *et al.* v. Belchertown *et al.* Superior Court, Hampshire County. Pending.
- Malden v. Boston & Maine Railroad Company. Superior Court, Middlesex County. Pending.
- Phelps v. Fitchburg Railroad Company. Superior Court, Middlesex County. Pending.

Putnam Machine Company *v.* Fitchburg. Superior Court, Worcester County. Pending.

Sanford, George E., *v.* Belchertown *et al.* Superior Court, Hampshire County. Pending.

Sprague *v.* Fitchburg. Superior Court, Worcester County. Pending.

Stack *v.* New York, New Haven & Hartford Railroad Company *et al.* Superior Court, Hampshire County. Pending.

DISSOLUTION OF CORPORATIONS.

The following corporations having made voluntary application to the Supreme Judicial Court for dissolution, and having given the Attorney-General due notice of the petition, and the Tax Commissioner having certified that they were not indebted to the Commonwealth for taxes, the Attorney-General waived right to be heard:—

A. L. Decatur Company.
Ames Manufacturing Company.
A. W. Darling Woolen Company.
Bigelow Carpet Company.
Boston Advertising Company.
Boston Hard Fibre Company.
Boston Stereotype Foundry.
Bracketts Market Corporation.
Brown & Simpson Company.
Crossman Edge Tool Company.
Dandy Rubber Heel Company.
Dennis, Thompson Pierce Company.
E. Wesson Adams Company.
Earl Cranberry Company.
Eastern Construction Company of Boston.
F. E. Smith Fibre Bobbin and Spool Corporation.
Falmouth Water Company.
Family Supply Co-operative Association.
Fitts Land and Power Company.
Free Press Publishing Company.
Goodman Leavitt Yatter Company.
Greek Supply Company.
Haverhill Dairy Depot Co-operative.
Holbrook Manufacturing Company.
Home Guarantee Mutual Insurance Company.
I. P. Harris Company.
John Rhodes Warp Company.
Lawrence Dry Goods Company.

Lincoln Mill Grain and Feed Company.
Linden Paper Company.
Merchants Co-operative Coupon Company.
Mitchell Paper Company.
Morgan Motor Company.
O'Donnell & Gilbride Company.
Ridgway Furnace Company.
Salem & South Danvers Oil Company.
Sawyer Leather Machinery Company.
Scandinavian Importing Company.
Shepard Novelty Company.
Talcum Mineral Company.
Tremont Mutual Fire Insurance Company.
Vacucleaner Company.
W. C. Langley Furniture Company.
William Lummus Company.
Williston & Knight Company.

RETURNS OF CORPORATIONS.

The following corporations, reported to this department by the Tax Commissioner for delinquency in making their tax returns under St. 1903, c. 437, § 45, have been compelled, without the necessity of a suit at law, to comply with the statute:—

Abbotts Menthol Plaster Company.
Acme Wire Mattress Company.
Advertiser Newspaper Company.
Aldrich Manufacturing Company.
Allen & Fox Express Company.
Allen Higgins Company.
Alonzo E. Blanchard Company.
Alpha Investment Company.
American Bridge and Structural Preserving Company.
American Citizen Company.
American Collection Agency (enjoined on 1903 tax).
American Watch Tool Company.
Andover Press, Limited.
Angle Toe Shank Company.
Atlantic Gasoline Engine Company.
Attleboro Trust Company.
Bakers and Brokers Service Company.
Barnstable Water Company.
Bay State Bottling Company.
Bay State Wholesale Company.
Beacon Publishing Company.
Belmont Coal Company.
Biddle & Smart Company.
Block Plant Electric Light Company.
Boston & Nova Scotia Woolen Mills Company, Limited.
Boston & Suburban Express Company.
Boston Colograph Company.
Boston Co-operative Cloak Manufacturing Company.
Boston Electric Company.
Boston Ice Cream and Baking Company.

Boston Mirror Company.
Boston Pharmacy Company.
Boston Traveller Company.
Boston Warehouse and Leasing Company.
Boston Workingmen's Co-operative Association.
Brown & Simonds Company.
Burleigh Rock Drill Company.
Caloric Transfer Company.
Cambridge Baking Company.
Cambridge Lumber Company.
Campello Leather Company.
Cape Poge Ferry Company.
Century Light Company of America.
Chapin-Crane Coal Company.
Chelmsford Foundry Company.
Chelmsford Gas Light Company.
Chelsea Express Despatch Company.
Chestnut Hill Real Estate Association.
Citizens Loan Association.
Cold Spring Grocery Company.
Coldwell-Gildard Company.
Combination Manufacturing Company.
Consolidated Box Machine Company.
Consolidated Clothing Company.
Conway Water Company.
Craig & Craig Company.
Crocker Drug Company.
Cunningham Lumber Company.
Daily Mail Publishing Company.
Daniel Russell Boiler Works, Incorporated.
Danvers Centre Building Association.
Dickerman & Company.
Dillon Machine Company.
Doctor Heighman Medicine Company.
E. A. Hall Publishing Company.
E. Gerry Emmons Corporation.
Eastern Sandstone Company.
Everett Gas Company.
F. A. Bassette Company.
Farmers Mutual Telephone Company.
Florence Manufacturing Company.
Franklin Park Land and Improvement Company.
G. H. Cutting Granite Company.
Gazette Publishing Company.

Gilman Snow Guard Company.
Glasgow Company.
Golden Manufacturing Company.
Graham Shoe Company.
Greenfield Recorder Company.
Greenwich Bleachery.
Grosvenor Woolen Company.
Grueby-Faience Company.
Guyer Hat Company.
H. F. Ross Company.
H. M. Kinports Company.
Hadley Water Company.
Hamden Photo Engineering Company.
Harrington Press.
Henry Woods Sons Company.
Hogg Carpet Company.
Holyoke Provision and Cold Storage Company.
Home Soap Company.
Horse Neck Beach Street Railway Company.
Howland Piano Company.
Hubley Manufacturing and Supply Company.
Huguenot Mills Company.
Hutchins Narrow Fabric Company.
J. W. Hobart Company.
Jackson Advertising Agency.
James H. Jacobs Company.
Kennedy & Sullivan Manufacturing Company.
Lewis J. Bird Company.
Lynch Brothers Leather Company.
Lynn Aqueduct Company.
Lyons & Alexander Company.
M. Crowne Company.
Malden Mail Company.
Marblehead Building Association.
Massachusetts Contracting Company.
McBarron Iron and Steel Company.
McCaul Brass Foundry Company.
Mechanical Improvement Company.
Mechanics Iron Foundry Company.
Milford Steam Heat Power and Refrigeration Company.
National Finance Company.
Nantucket Electric Company.
National Pharmacy Company.
New Can Company.

New England Bedding Company.
New England Electric Railroad Construction Company.
New England Shirt Company.
Norcross Brown Stone Company.
Norton & Taunton Street Railway Company.
Osceola Manufacturing Company.
P. P. Emory Manufacturing Company.
Peabody Granite Company.
Peoples Coal, Ice and Lumber Company.
Persons Manufacturing Company.
Pittsfield Co-operative Store.
Plymouth Stove Foundry Company.
Preferred Mercantile Company of Boston.
Prentice Brothers Company.
Puritan Cloak and Clothing Company.
Purity Ice Company.
R. Gustavino Company.
Railway Track Sander Company.
Robinson Luce Company.
Rockland Factory Building Association.
Rounds & Dennison Manufacturing Company.
S. A. Freeman Company.
Savings and Trust Publishing Company.
Sawyer Drug Company.
Sarranilla Transportation Company.
Shady Hill Nursery Company.
Shepley & Smith Contracting Company.
South Bay Improvement Company.
Springfield Co-operative Union Laundry Company.
Staple Heeling Company.
Star Credit Clothing Company.
State Manufacturing Company.
Sterling Slipper Company.
Suffolk Co-Press.
Suffolk Lumber Company.
Taunton Evening News.
Telegram Publishing Company.
Times Publishing Company.
Transcontinental Refrigerator Company.
Union Express Company.
Union Glass Company.
Union Hall Association.
United States Credit Company.
Vacuum Cleaner Company.

Vienna Baking Company.
Wachusett Mills.
Wakefield Real Estate and Building Company.
Walpole Emery Mills.
Warren & Monks Company.
Warren Lumber and Fuel Company.
West Chop Steamboat Company.
Weymouth Light and Power Company.
Weymouth Water Power Company.
William A. Clark Coal Company.
Worcester Fire Appliance Company.
Worcester Umbrella Company.

The following corporations, reported to this department by the Commissioner of Corporations for delinquency in filing the certificate of condition for 1904, required by St. 1903, c. 437, §§ 45, 66, have been compelled, without the necessity of suit, to comply with the statute : —

A. H. Demond Company.
A. O. Speare Company.
Albert Culver Company.
Altamonte Springs Company.
American and Sun Publishing Company.
American Bank Note Company.
American Camera Manufacturing Company.
American Mason Safety Tread Company.
American Stave and Cooperage Company.
Ashland Emery and Corundum Company.
Associated Wool Growers Company.
Atlantic Gasoline Engine Company.
Atlantic Telegraph Company of Massachusetts.
Atlas Shoe Company.
B. F. Sturtevant Company.
Bailey & Blending Manufacturing Company.
Baker Hunnewell Company.
Ball Bearing Company.
Bay State Construction Company.
Bay State Co-operative Bench Show Association.
Bay State Distilling Company.
Beacon Shoe Company.
Bemis Mills.
Boston Baking Powder Company.
Boston Blower Company.

Boston Bread and Bread Crumb Company.
Boston Credit Company.
Boston Dairy Company.
Boston Excursion Steamboat Company.
Boston Fire Despatch Company.
Boyd & Corey Boot and Shoe Manufacturing Company.
Bridgewater Water Company.
Brockton Industrial Corporation.
Burnett Paint Company.
Burnetts Information Company.
C. S. Benner Corporation.
C. W. Russell Company.
Chartered Company of Lower California.
Chelsea Express Despatch Company.
Clark Bobbin Company.
Colman Co-operative Company.
Commonwealth Optical Company.
Commonwealth Securities Company.
Courier-Independent Publishing Company.
Credit Clearing House.
Denison Brothers Company.
Dillon Machine Company.
Dunbar Driftwood Blaze Company.
Duparquet, Huot & Monense Company.
E. R. Brown Beer Pump Company.
Eastern Egg Company.
F. W. Dunnell Composite Leather Company.
Fisher-Churchill Company.
Fitchburg Hardware Company.
Flagg Manufacturing Company.
Fore River Company.
Fowles Arlington Mills.
Frank H. Hall Company.
Franklin Telegraph Company.
G. H. Cutting Granite Company.
George F. Quigley Company.
George W. Stafford Company.
Globe Dyeing and Bleaching Company.
Graustein & Company.
Greenwich Bleachery.
H. A. Hanscom Company.
Hadley Mills.
Hanover Printing Company.
Hatch Accumulator Company.

Hayward & Litch Express Company.
Hingham Seamface Granite Company.
Hosmer Coddling Company.
Hutchins Narrow Fabric Company.
Indian Orchard Flax Company.
Ingersoll-Sargent Drill Company.
J. P. & W. H. Emond, Incorporated.
John H. Woodbury Dermatological Institute.
Joseph Stevens Heirs, Incorporated.
Kendall Building Company.
Kinnear Manufacturing Company.
L. E. Boyden Company.
Laconia Car Company.
Lalance & Grosjean Manufacturing Company.
Lehigh & Wilkes Barre Coal Company.
Lumsden & VanStone Company.
M. S. Hiller & Sons.
Magnetic Electric Company.
Magoun Leather Company.
Marlboro Times Publishing Company.
Martha's Vineyard Electric Light and Power Company.
Massachusetts Real Estate Company.
Meade Roofing and Cornice Company.
Medfield Water Company.
Meisterschaft Publishing Company.
Mutual Mail Order Company.
Nantasket Steeple Chase Company.
National Casket Company.
National Conduit and Cable Company.
New England Amusement Company.
New England Audit Company.
New England Consolidated Ice Companies.
News Publishing Company of Framingham.
Norfolk Oil Company.
Nute-Hallett Company, Incorporated.
O. T. Rogers Granite Company.
Oriental Powder Mills.
Parry Macomber Company.
Pentucket Variable Stitch Sewing Machine Company.
Pepperell Building Company.
Pepperell Manufacturing and Building Company.
Place Box Company.
Playano Manufacturing Company.
Prentice Brothers Company.

Puritan Securities Company.
Purity Soap Company.
R. J. Todd Company.
Record Publishing Company.
Roebing Construction Company.
Rubber Soled Leather Shoe Company.
Samuel Pierce Organ Pipe Company.
Sargent, Conant & Co., Incorporated.
Scandinavian Importing Company.
Smith Warren Company.
Southern Coast Lumber Company.
Springfield Construction Company.
Springfield Elevator and Pump Company.
Springfield Machine Screw Company.
Standish Hall Company.
Stevens Type and Press Company.
Stockbridge Machine Company.
Sumner Manufacturing Company.
Suspension Transportation Company.
Sutton Cranberry Company.
Title Research and Credit Company.
Troy White Granite Company.
U. S. Appraisal Company.
Underfeed Stoker Company of America.
Union Metallic Paint Company.
United Shoe Stock Company.
United States Automatic Machine Company.
University City Laundering Company.
W. C. Young Manufacturing Company.
W. H. Blake Steam Pump Company.
W. W. Cobb Shoe Stock Company.
Warren & Monks Company.
Weymouth Light and Power Company.
Weymouth Seam-face Granite Company.
Worcester Automobile Company.
Worcester Fire Appliance Company.
Worcester Gazette Company.

CASES ARISING IN THE PROBATE COURTS

UNDER THE

COLLATERAL INHERITANCE TAX ACT.

Berkshire County.

Gaylord, William H., estate of. Evelyn F. Gaylord *et al.*, administrators. Petition for instructions. No action taken.

Bristol County.

Bowen, Charles H., estate of. George L. Cooke, administrator. Petition for license to receive personal estate in Massachusetts. Pending.

Bullock, James, estate of. Mary A. Loughlin, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

Chafee, Mary F., estate of. Zechariah Chafee, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

Durfee, Amey B., estate of. Samuel S. Durfee, administrator. Petition for license to receive personal estate in Massachusetts. Pending.

Fry, Edward, estate of. F. Josephine Fry, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

Hoffman, Elizabeth, estate of. Francis B. Hoffman, executor. Petition for license to receive personal estate in Massachusetts. Pending.

Mould, Christopher A., estate of. Wm. C. Parker, administrator. Petition for allowance of final account and transfer to foreign executor. Attorney-General waived right to be heard.

Palmer, Eveline L., estate of. Edward S. Adams, executor. Petition for instructions. Pending.

Peckham, Nancy H., estate of. Benjamin Greene, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

- Pitman, William H., estate of. Margaret Pitman, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Ramos, Frank Roza, estate of. Marian Roza Ramos, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Rounds, Joseph, estate of. John T. Cook, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Simmons, Abram G., estate of. Nellie F. Simmons, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Slocum, Phoebe B., estate of. George F. Tucker *et al.*, executors. Petition for instructions. Pending.
- Smith, Mary A., estate of. Edward F. Danforth, trustee. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Stevenson, Mary B., estate of. Wm. W. Stevenson, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Taber, Mary W., estate of. Chas. E. Chase, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Wakefield, Horace, estate of. Montague W. Taylor *et als.*, executors. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- White, Isaac G., estate of. Emerson F. Ash, executor. Petition for instructions. Pending.
- Wilson, Mary L., estate of. Everett J. Wallace, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

Essex County.

- Anderson, Hannah D., estate of. George M. Anderson, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Anderson, John M., estate of. Wallace A. Chisholm, trustee. Petition for reappraisal. Frederick Cate appointed appraiser.
- Berry, Judith, estate of. Lizzie Hawes, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Blodget, Henry, estate of. Henry Blodget, administrator. Petition for license to receive personal estate in Massachusetts. Pending.

- Broughton, Daniel S., estate of. John S. Rand, administrator. Petition for license to receive personal estate in Massachusetts. Pending.
- Brown, Elizabeth M., estate of. David B. Kimball *et al.*, executors. Petition for reappraisal. George H. W. Hayes appointed appraiser.
- Brown, Eunice, estate of. John W. Brown, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Brown, George K., estate of. Harry E. Brown, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Brown, John T., estate of. Jacob F. Brown, executor. Petition for instructions regarding collateral inheritance tax. Pending.
- Bunker, John F., estate of. Geo. L. Chase, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Chapman, Jacob, estate of. Henry A. Shute, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Chase, Elihu F., estate of. Joseph S. Howe, executor. Petition for instructions. Attorney-General waived right to be heard.
- Chase, Philip A., estate of. Alice B. Chase *et al.*, executors. Petition for extension of time for payment of tax. Assented to petition.
- Clark, Hiram M., estate of. Sarah J. Clark, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Cloutman, Ellen B., estate of. Frances Browne, executrix. Petition for postponement of time for payment of tax. Pending.
- Colby, Susan E., estate of. Sarah A. Prescott, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Cote, Lucy E., estate of. James H. Curtis, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Currier, Anna A., estate of. Irving M. Heath, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Dickson, Walter S., estate of. First Universalist Society, petitioners. Petition for instructions. Pending before full court. Rescript. See 185 Mass. 310.

- Dodge, Harriet P., estate of. Arthur M. Dodge *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Dow, Abram, estate of. Wm. S. Dow, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Durant, Sophia T., estate of. Winifred F. Beacham, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Felton, Hannah R., estate of. Samuel P. Willard *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Fernald, Abbie J., estate of. Mary F. Bickum, executrix. Petition for allowance of private claim against estate. Attorney-General waived right to be heard.
- Fisher, Moses B., estate of. Theron P. Fisher, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Fletcher, Clara A., estate of. George M. Fletcher, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Fowler, Oliver P., estate of. Chas. A. Fowler, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Greene, Elizabeth S., estate of. Chas. J. Pollard, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Griffin, John, estate of. Roger I. Howe, administrator. Petition for allowance of first and final account. Assented to petition.
- Hale, Anna H., estate of. Catherine L. Hall, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Hayes, Cyrus E., estate of. Frank P. Hayes, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Kelly, Patrick, estate of. Martin W. Lydon, executor. Petition for reappraisal. Assented to appointment of Michael H. Scanlan as appraiser.
- Lancaster, Harriet W., estate of. Guy E. Covey, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Little, Phebe B., estate of. Carrie B. Sargent *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Pending.

- Locke, Sarah A., estate of. Abbot Norris, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Mace, John F., estate of. George P. Mace, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Mack, William, estate of. David Moore *et al.*, executors. Petition for instructions. Pending.
- Marehant, Frances R., estate of. Bernard P. Mimmack, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Maroin, Ella M., estate of. E. M. Smith, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Maynard, Daniel H., estate of. George H. Maynard *et al.*, executors. Petition for postponement of time for payment of tax. Assented to petition.
- Merrill, Margaret C., estate of. Millard F. Emery, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Miller, Sarah J., estate of. George Miller, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Moulton, Alvin A., estate of. Hannah M. Moulton, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Murphy, Cornelius, estate of. Dennis W. Murphy, administrator. Petition for instructions. Pending.
- Murray, Betsey, estate of. Edwin Stone, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Nichols, Mary C., estate of. Frank O. Woods, executor. Petition for instructions. Pending.
- Nowell, James, estate of. Nathaniel J. Head, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Nowell, Samuel, estate of. Nathaniel J. Head, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Parsons, Sarah D., estate of. Maria S. Parsons *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

- Peabody, Louisa D., estate of. Francis S. Parker, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Pendexter, Mary A., estate of. Cordelia H. Snow, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Pierce, Abigail P., estate of. William W. Hatch, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Pierce, Hiram P., estate of. William W. Hatch, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Prescott, Richard L., estate of. Edgar S. Prescott, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Randall, Elizabeth A., estate of. James L. Gibson, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Sanborn, Charles H., estate of. Lucy M. Sanborn, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Saunders, John R., estate of. Elizabeth G. Saunders, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Scannell, John, estate of. John T. Scannell, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Simpson, Albert E., estate of. Norman B. Simpson, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Sloan, David, estate of. James E. Sloan, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Smith, Anna C., estate of. George S. Thompson, administrator. Petition for license to receive personal estate in Massachusetts. Pending.
- Smothers, Jonathan, estate of. Francis A. Newell, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Stiles, Joseph W., estate of. Harriet J. Stiles, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

- Swett, Mary A., estate of. Irving M. Heath, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Tilton, Mary A., estate of. Chas. W. Tilton, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Towle, Ann, estate of. Nellie M. Pickering, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Towne, Joseph H., estate of. Rosina C. Towne, executrix. Petition for instructions. Pending.
- Twombly, Sarah F., estate of. Wm. A. Plumer, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Walker, Caroline A., estate of. Alphonso Robinson, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Webster, Benjamin P., estate of. Perley C. Robinson, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Whitehouse, Clara L., estate of. Martha L. Whitehouse, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Wood, Asa A., estate of. Frank H. Wood, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- York, Betsey P., estate of. John W. York, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

Franklin County.

- Green-Hare, Elizabeth J. H., estate of. George E. Taylor, executor. Petition for instructions. No tax claimed.
- Hall, Elizabeth J. H., estate of. George E. Taylor, executor. Petition for instructions. Pending.
- Mattoon, John L., estate of. Charles H. Green *et al.*, executors. Petition for instructions. Pending.

Hampden County.

- Arnold, Cynthia A., estate of. Everett P. Russell, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

- Babcock, W. Sumner, estate of. Nathaniel R. Bronson, executor. Petition for instructions. Attorney-General waived right to be heard on payment of tax.
- Ballantine, Sarah D., estate of. Frank L. Chapman, trustee. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Brewer, Cynthia A., estate of. Arthur B. West *et als.*, executors. Petition for allowance of final account. Attorney-General waived right to be heard.
- Burt, Elizabeth, estate of. Daniel Burt, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Carroll, Henrietta, estate of. Henry A. King *et al.*, executors. Petition for appraisal. W. C. Simons appointed appraiser.
- Chase, Cornelia S., estate of. Springfield Safe Deposit and Trust Company, administrators, with will annexed. Petition for instructions. Decree.
- Coolbroth, Mary L., estate of. George F. Gould, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Crockett, Sara L., estate of. H. L. Harding *et al.*, executors. Petition of Treasurer and Receiver-General to collect tax on said estate. Pending.
- Davis, Samuel A., estate of. Franklin C. Davis, executor. Petition for license to receive personal estate in Massachusetts. Pending.
- Goldthwait, Mary R., estate of. Frank H. Goldthwait, executor. Petition for allowance of final account. Attorney-General waived right to be heard.
- Gowdy, Horace C., estate of. Horace N. Clark, executor. Petition for allowance of final account. Attorney-General waived right to be heard.
- Greenleaf, Elizabeth C., estate of. George W. Cate, executor. Petition for instructions. Decree.
- Hooker, Jane W., estate of. Frederick H. Judd, executor. Petition for allowance of second and final account. Attorney-General waived right to be heard.
- McCann, Maria T., estate of. Frederick H. Stebbins, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Mitchell, Annie B., estate of. Edward D. Ferguson, executor. Petition for instructions. Decree.

- Peabody, Sarah Fisk, estate of. John E. Keith, executor. Petition for instructions. Pending.
- Pierson, Olivia, estate of. Julian S. Allen, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Poore, Charles K., estate of. Zora Poore, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Poor, Mary J., estate of. John T. Tackett, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Schofield, Chas. M., estate of. Columbus S. Schofield, guardian. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Snow, Elmira L., estate of. Minnie J. Snow, executrix. Petition for license to receive personal estate in Massachusetts. Pending.
- Southworth, Elizabeth W., estate of. Ida S. Griffin, executrix. Petition for allowance of final account. Attorney-General waived right to be heard.
- Strickland, Rial, estate of. Elizabeth H. Strickland *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Willard, Helen S., estate of. Daniel W. Willard, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

Hampshire County.

- Chandler, Mary W., estate of. Wm. E. Chandler *et al.*, administrators. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Cook, Christine, estate of. Valentine Cook, Jr., *et al.*, petitioners. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Fallon, Mary, estate of. Ann Jane McAlister, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

Middlesex County.

- Adams, Henry W., estate of. Nancy J. Adams, executrix. Petition for license to receive personal estate in Massachusetts. Pending.

- Baker, Ellen S., estate of. Leavitt C. Howe, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Barrell, George O., estate of. George Manent, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Belanger, Louis, estate of. Marie Belanger, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Blodgett, Clarissa S., estate of. Morris S. Blodgett, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Britton, Relief D., estate of. Wilson A. Averill, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Butler, Celia A., estate of. John F. Butler, administrator. Petition for license to receive personal estate in Massachusetts. Pending.
- Campbell, Rebecca Ann, estate of. Charles F. Smith, executor. Petition for license to receive personal estate in Massachusetts. Pending.
- Chamberlain, Eliza J., estate of. William C. Crane, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Chamberlin, Frank N., estate of. Helen J. Chamberlin, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Choate, Charles, estate of. Isaac Sprague, trustee. Petition for instructions regarding distribution of funds and payment of inheritance tax. Pending.
- Clark, Mary G., estate of. Byron R. Bixby, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Clarke, Ephraim H., estate of. Clara J. Clarke, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Clarke, Rufus A., estate of. George E. Clarke, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Crabtree, Maria L., estate of. Alfred B. Crabtree *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Pending.

- Crippen, Susan J., estate of. Lila J. Layng, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Cumington, John Rowe, estate of. James S. Hill, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Currier, Chas. W., estate of. E. Alonzo, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Dearborn, Sam. G., estate of. Frank A. Dearborn *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- DePaul, Louise, estate of. Mike DePaul, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- DeWitt, Sarah J., estate of. Perez Babbage, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Diman, Emily S., estate of. Emily Diman, administratrix. Petition for license to receive personal estate in Massachusetts. Pending.
- Downing, Mary L., estate of. Fayette F. Downing, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Evans, Ada M., estate of. Martha I. Webster, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Farley, Jefferson, estate of. Charlotte M. Farley, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Farr, Betsey M., estate of. Warren G. Chase, executor. Petition for license to receive personal estate in Massachusetts. Pending.
- Field, Carl F., estate of. Dana D. Field, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Fleming, Edwin, estate of. Vernon E. Carpenter, executor. Petition for instructions. Decree.
- Ford, Daniel S., estate of. Wm. S. Monroe *et al.*, executors. Petition for decree to relieve estate from liens on account of tax. Assented to petition.
- Gale, Lilla S., estate of. George P. Gale, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

- Gerrish, Ann, estate of. David J. Dunlop, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Gibson, Jesse, estate of. Hannah F. Gibson, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Gilman, Emma Philles Goodwin, estate of. Joseph Thayer Gilman, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Glover, Emeline A., estate of. David A. Starrett, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Goggin, Mary L., estate of. Clarence L. Goggin, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Green, Sarah M., estate of. Alfred S. Kimball, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Halrose, Manuel, estate of. John A. Howe, Jr., administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Handrahan, John P., estate of. Mary Handrahan, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Harris, Laura M., estate of. Josiah M. Fletcher *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Havens, Chas. E., estate of. Ellen A. Havens, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Hoar, Calvin A., estate of. Harry A. Crawford, trustee. Petition for instructions. Pending.
- Hobbs, Martha D., estate of. Chas. W. Hobbs, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Holsten, Harmon K., estate of. John K. Holsten, administrator. Petition for license to receive personal estate in Massachusetts. Pending.
- Hopkins, Mary, estate of. Willard Bill, Jr., executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Kane, Hannah, estate of. Augustus W. Shea, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

- Kane, Thomas H., estate of. Augustus W. Shea, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Keody, Mary A., estate of. Edward J. Keody, executor. Petition for reappraisal. Franklin Enslin appointed appraiser.
- Knox, Sarah A., estate of. John B. Nash, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Lawrence, Lucy W., estate of. Lucy W. Davis, trustee. Petition for instructions. Decree.
- Lyon, Sophia J., estate of. Chas. W. Hobbs, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- McAllister, Mary G., estate of. Mary G. Harris, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- McDonald, Helen M. Willey, estate of. Ernest L. Morandi, executor. Petition for instructions. Answer filed claiming tax. Decree.
- Montague, Mary E., estate of. Chas. H. Montague *et al.*, executors. Petition for reappraisal. James P. Richardson appointed appraiser.
- Nash, Susan Caroline, estate of. Wm. B. Rotch, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Nickerson, Thomas, estate of. Andrew Nickerson *et als.*, executors. Petition for allowance of executors' compensation for services. Attorney-General waived right to be heard.
- O'Connell, Bridget, estate of. Wm. Page, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Page, J. Frank, estate of. Mary J. Flanders, executrix. Petition for reappraisal. James J. Kirwin appointed appraiser.
- Page, Maria M., estate of. Wm. A. Page, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Pettee, William H., estate of. Sybil C. Pettee, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Pickering, Lucy M., estate of. Chas. L. Pulsifer, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

- Raymond, Julius, estate of. George Raymond, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Richardson, Chandler R., estate of. Augustus E. Scott, executor. Petition for instructions. Pending.
- Rollins, Eliza A., estate of. A. Herbert Rollins, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Rose, George, estate of. Sarah A. Rose, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Sargent, Franklin W., estate of. Harriet E. Sargent, executrix. Petition for license to receive personal estate in Massachusetts. Pending.
- Searle, Chas. J., estate of. Frank W. Searle, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Seavey, Clara A., estate of. Chas. L. Seavey, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Seavey, Joseph A., estate of. Chas. W. Hobbs, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Shanley, Hester E., estate of. James H. Macomber, administrator. Petition for license to receive personal estate in Massachusetts. Pending.
- Shea, John B., estate of. Margaret B. Shea, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Shepard, Andrew N., estate of. Harry A. Shepard *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Pending.
- Smith, Lewis E., estate of. Howard Revere Smith, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Snow, Emily A., estate of. Sophia H. Wilder *et al.*, administrators. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Tarbell, Louisa F., estate of. Delora T. Kimball, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Tenney, Isabella B., estate of. Alonzo C. Tenney, executor. Petition for instructions. Decree.

- Tileston, Sarah Ann, estate of. Petition of the Treasurer and Receiver-General to determine amount of inheritance tax due. Pending before Supreme Judicial Court on appeal.
- Tucker, George W., estate of. John E. French, executor. Petition for license to receive personal estate in Massachusetts. Pending.
- Tukey, Patrick, estate of. Henry H. Chamberlain, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Upton, Isaac J., estate of. Augusta P. Upton, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Wentworth, Ann, estate of. George P. Lawrence, administrator. Petition for reappraisal. James J. Kirwin appointed appraiser.
- Wiggin, Olive, estate of. Addie M. Beede *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Willoby, Cornelia L., estate of. Fred C. Willoby *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

Norfolk County.

- Johnson, Andrew E., estate of. Caroline E. Hobbs, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Morse, Edwin B., estate of. Isabel Ward Towle, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- O'Connell, Margaret, estate of. Mary O'Sullivan *et al.*, executrices. Petition for license to receive personal estate in Massachusetts. Pending.

Plymouth County.

- Stevens, Charles E., estate of (Bradford, treasurer, *v.* Stevens, executor). Petition for instructions. Rescript. See 185 Mass. 439.

Suffolk County.

- Anthony, Bertha, estate of. Frederick D. Runells, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

- Atherton, Maria F., estate of. Henry H. Hastings, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Barrell, George O., estate of. George Manent, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Bean, Lizzie P., estate of. Homer Martin Bean, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Bettinger, Cora M., estate of. John J. Bettinger, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Billings, Robert C., estate of. Thomas Minns, executor. Petition for instructions. Pending.
- Blaisdell, Stephen J., estate of. Chas. E. Bourne *et al.*, executors. Petition for extension of time for payment of tax. Assented to petition.
- Brew, George Magnus, estate of. Agnes E. I. Brew, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Bridge, Charlotte M., estate of. Thomas H. Looker, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Bullard, Enoch P., estate of. Harold C. Bullard, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Burnham, Edward P., estate of. Lucy T. Russell, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Burr, Susan H., estate of. Sarah E. Raymond Fitzwilliam, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Cameron, Mabel Myers, estate of. Henry L. Cameron, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Clawson, Augusta Holmes, estate of. Frank T. Clawson, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Codman, Maria P., estate of. Robert M. Morse *et al.*, executors. Petition for instructions to determine the amount of the collateral legacy tax. Pending.

- Colby, Silas, estate of. Sarah I. Colby, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Crombie, Susan F., estate of. Wm. A. Pierce, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Cross, Hannah J., estate of. Weltha A. Cross, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Cummings, Sarah A., estate of. Daniel B. Cummings, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Currier, Nancy J., estate of. Emery R. Currier, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Curtis, Lucy P., estate of. Voranus C. Plummer, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Daniell, Reuben, estate of. George C. Brackett, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Darrach, Florrie, estate of. Duncan Darrach, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Delano, Jane V., estate of. Chas. J. Bell, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Dunlop, Robert, estate of. Albert Spencer *et al.*, administrators. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Everett, Edward, estate of. Mary A. A. Everett, petitioner. Petition for appointment of trustee to sell real estate. Assented to appointment of Cora A. Benneson as trustee.
- Flint, David B., estate of. Almeno J. Flint *et als.*, trustees. Petition for extension of time for payment of tax. Pending.
- Ford, William E., estate of. Daniel B. Hallet *et al.*, executors. Petition for reappraisal. Stanley M. Bolster appointed appraiser.
- Fosdick, Sarah Elizabeth, estate of. M. D. Tennant, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Foster, Martha Prince, estate of. Stephen B. Meech, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.

- Gates, Aubyne H., estate of. Frank B. True, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- George, Caroline, estate of. Greenleaf C. George, executor. Petition for extension of time for payment of tax. Assented to petition.
- Greele, Louisa M., estate of. Arthur B. Titcomb, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Harder, William W., estate of. Mary H. Wallace, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Hart, Charles, estate of. Rhode Island Hospital Trust Company, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Hart, Susanna M., estate of. Lydia J. Segee, petitioner. Petition for instructions. Pending.
- Hecht, Jacob H., estate of. Lina F. Hecht *et al.*, petitioners. Petition for postponement of time for payment of tax. Assented to petition.
- Herrick, Susan E., estate of. Chas. A. Harris, administrator. Petition for license to receive personal estate in Massachusetts. Pending.
- Howe, Irving A., estate of. D. J. Lord, administrator. Petition of Treasurer and Receiver-General for payment of tax on certain legacies. Pending.
- James, Hannah P., estate of. Faith A. Bullard, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Kimball, Emma E., estate of. Daniel E. Kimball, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Lewis, John E., estate of. Chas. E. Lewis, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Littlefield, Julia A., estate of. C. M. G. Harwood, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Lord, Eunice, estate of. Henry J. Merrill, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Loring, Wm. B., estate of. John H. Colby *et al.*, executors. Petition for extension of time for payment of tax. Assented to petition.

- Mallon, Mary F., estate of. G. Philip Wardner, executor. Petition for instructions. Attorney-General waived right to be heard.
- Martin, Margaret L., estate of. Julius C. Tibbetts, executor. Petition for license to receive personal estate in Massachusetts. Pending.
- McDuffee, Lydia Frances, estate of. Horace Everett McDuffee, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Means, Chas. T., estate of. Elizabeth A. Means, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Merrill, John M., estate of. Annie M. Howe, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Merrill, Susan C., estate of. Asa Merrill, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Mills, Mary B., estate of. Charles H. Pray, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Moore, Lucius, estate of. Union Trust Company, trustee. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Morrill, Sarah W., estate of. Thomas B. Twombly, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Morris, Eliza B., estate of. Mary P. Barker, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Murphy, Lucy A., estate of. Wm. M. Murphy, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Nutter, Horatio G., estate of. Edwin U. Curtis, trustee. Petition for reappraisal. Thomas G. Joyce appointed appraiser.
- Page, Smith W., estate of. Ernest H. Howe, executor. Petition for license to receive personal estate in Massachusetts. Pending.
- Park, Mary Augusta, estate of. Jabez Elson Park, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Parker, Olin, estate of. Chas. O. Parker, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

- Pierce, Mary F., estate of. Mary W. Holmes *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Pending.
- Porter, Edward, estate of. Charles E. Furman, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Pryor, C. Elizabeth, estate of. Mary H. Whitney *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Putnam, Hiram B., estate of. Harriet Putnam, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Reed, Margaret E., estate of. Maud S. Ham, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Richards, Amasa S., estate of. Richard C. Humphreys, executor. Petition for reappraisal. Stanley M. Bolster appointed appraiser.
- Robinson, Henry C., estate of. Edward M. Robinson, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Simpson, Elizabeth E., estate of. Maria Simpson Ford, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Smith, Louisa S., estate of. Albert E. Grant, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Snow, Emily A., estate of. Sophia H. Wilder *et al.*, administrators. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Stiles, Hannah S., estate of. Ada C. Parshley, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Tapley, Gilbert C., estate of. Chas. T. Moulton *et al.*, administrators. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Thompson, Andrew W., estate of. Edwin H. C. Thompson, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

- Torr, Mary C., estate of. Charles C. Torr, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Torrey, Edwin H., estate of. Florence A. Young, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Walker, George S., estate of. Anna F. Walker, executrix. Petition for postponement of time for payment of tax. Assented to postponement.
- Warren, Joseph H., estate of. Chas. M. Warren, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Wayland, Francis, estate of. Geo. D. Watrouse *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Wayland, Hepsey S., estate of. Frederick E. Field, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Weare, Julia M., estate of. Chas. W. Tapley *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Pending.
- Welsh, Patrick, estate of. Hugh Davy, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Wescott, Jeremiah, estate of. Lucy Ann Wescott, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Whitehouse, Clara L., estate of. Martha L. Whitehouse, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Whitcomb, Henry F., estate of. Chas. W. Tuttle, executor. Petition for postponement of time for payment of tax. Assented to petition.
- Whitcomb, Henry F., estate of. Chas. W. Tuttle, executor. Petition for reappraisal. Stanley M. Bolster appointed appraiser.
- Wilcox, George S., estate of. Julia A. Wilcox, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Worcester, Edwin D., estate of. Edwin D. Worcester, Jr., executor. Petition for license to receive personal estate in Massachusetts. Pending.
- Zeigler, Peter, estate of. Theodore H. Tyndale, public administrator. Petition for instructions. Pending.

Worcester County.

- Aldrich, Arvin, estate of. Forrest W. Hall, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Baker, Artemas, estate of. Calvin B. Perry, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Browning, Chas. L., estate of. Louis P. Browning, executor. Petition for instructions and postponement of time for payment of tax. Assented to petition.
- Bruce, George, estate of. Wm. Moore, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Caldwell, Mabelle K., estate of. George W. Caldwell, administrator. Petition for license to receive personal estate in Massachusetts. Pending.
- Carpenter, Sarah A., estate of. Chas. H. Leonard, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Carville, Christiana, estate of. Addie A. Dow, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Chapman, Charles F., estate of. Harry F. Chapman *et al.*, administrators. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Curtis, Morrill H., estate of. Orrin T. Curtis, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard on payment of tax.
- Daoust, Joseph, estate of. Emma Daoust, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Donovan, Patrick, Jr., estate of. Dennis Donovan, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Drew, John G., estate of. J. Horace Drew, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Durkee, Eveline O., estate of. Wallace L. Durkee, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Fife, Daniel J., estate of. Lizzie H. Fife, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

- Gale, John H., estate of. Edward Stebbins, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Goodwin, Sylvia E. C., estate of. Chas. L. Goodwin, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Ivory, James, estate of. Sarah M. Ivory, executrix. Petition for license to sell real estate in Massachusetts. Attorney-General waived right to be heard.
- Jones, Frederick, estate of. Caroline F. Jones, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Kendall, Melvina H., estate of. Adna E. Kendall, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Kenyon, Lucy A., estate of. Frank B. Tracy, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- King, Sophia, estate of. Ellen S. Milliken, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Kingsbury, Eli P., estate of. Horace Kingsbury, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Levy, Ella A., estate of. Chas. F. Lamb, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Marsh, Jacob H., estate of. Gertrude M. Fuller, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- McLane, Leander, estate of. George P. Hadley, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Milliken, Samuel K., estate of. James A. Milliken, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Nash, Mary A., estate of. Nellie Nash, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Nims, Sarah M. W., estate of. Ernest A. Nims, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Oberer, Fidel, estate of. Frank A. Oberer, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.

- Otis, Fred W., estate of. Mary A. Otis, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Parker, Augusta A., estate of. George Parker, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Peaslee, George W., estate of. Ella D. Norris *et al.*, executors. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Prentice, Ira, estate of. Amos J. Blake, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Richardson, Clovis, estate of. William E. Wheelock, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Ripley, Emily B., estate of. Petition for reappraisal. Charles P. Adams appointed appraiser.
- Robillard, Jean Baptiste, estate of. L. Emile Robillard, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Robinson, Eliza M., estate of. Harry C. Hammond, executor. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Sawtell, Elizabeth, estate of. Adaliza C. Leathe, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Stowell, John E., estate of. Hattie G. Stowell, executrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Torrey, Mary M., estate of. Chas. H. Hersey, administrator. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Warren, Elvira, estate of. Elsie Warren, administratrix. Petition for license to receive personal estate in Massachusetts. Attorney-General waived right to be heard.
- Weeks, George W., estate of. George P. Taylor *et al.*, executors. Petition for postponement of time for payment of tax. Pending.
- Weeks, George W., estate of. New England Cotton Manufacturers' Association, petitioners. Petition for instructions. Decree.
- Wheelock, Jerome, estate of. Worcester Safe Deposit and Trust Company, petitioner. Petition for instructions. Pending. Decree.

PUBLIC CHARITABLE TRUSTS.

Berkshire County.

Owen, Charles M., estate of. James M. Barker *et al.*, trustees. Petition for instructions. Attorney-General waived right to be heard.

Bristol County.

Attorney-General *ex rel.* v. Julia A. Briggs, executrix. Petition in equity for appointment of Fairhaven as trustee of Abner Pease fund.

Ricketts, James, estate of. Petition of overseers of the poor of Fairhaven and Attorney-General to sell certain estate in trust. Decree.

Essex County.

Essex Agricultural Society v. Massachusetts General Hospital Corporation and the Attorney-General. Petition to sell real estate and to apply the doctrine of *cy-pres*. Service accepted. Petition dismissed. Petitioner appealed. Pending.

First Baptist Society v. J. Brainard Wilson *et al.* and Attorney-General. Bill in equity for instructions under will of Edward H. Wilson for sale of trust property. Pending.

Kimball, Nathaniel Tenney, estate of. Ella F. Kimball, executrix. Petition for instructions regarding a charitable trust. Attorney-General waived right to be heard.

Phillips Academy Trustees v. Attorney-General *et als.* Bill in equity to devise scheme for carrying out a trust under the will of Samuel Phillips. Pending.

Sheehan, Mary S., estate of. Denis Donoghue, trustee. Petition for instructions regarding bequest to St. Mary's Roman Catholic Church. Attorney-General waived right to be heard.

St. John's Church of Lawrence, petitioner. Petition for appointment of trustees under a charitable trust. Assented to petition.

Young Men's Christian Association of Merrimac, petitioners. Petition for leave to sell real estate held in trust. Pending.

Hampden County.

- Boland, Catherine E., estate of. John F. Fogan, trustee. Petition for leave to sell real estate left for charitable purposes. Assented to petition.
- Boland, James J., estate of. John F. Fogan, trustee. Petition for leave to sell real estate left for charitable purposes. Assented to petition.
- Elliott, Augusta C., estate of. Church of Christ *v.* Charles H. Barrows *et al.* Petition to pay over trust funds. Answer filed. Decree.
- Hamilton, John F., estate of. John O. Hamilton, trustee. Petition for instructions regarding the disposition of trust funds. Pending.

Middlesex County.

- Blaisdell, Susan A., estate of. Harry A. Brown, executor. Petition for instructions regarding a public charitable trust. Decree.
- Carter, Sabra, estate of. Chester W. Clark, administrator, *v.* Attorney-General. Bill in equity for instructions. Attorney-General waived right to be heard.
- Choate, Charles, estate of. John M. Harlow, trustee. Petition for instructions regarding a charitable trust. Pending.
- Goodnow, Nancy, estate of. Deacons of Tabernacle Baptist Church, petitioners. Petition for appointment of trustees and sale of trust estate. Assented to petition.
- Greenleaf, James, estate of. Richard H. Dana, trustee, *v.* Richard H. Dana *et al.* Petition for instructions. Rescript. See 185 Mass. 156.
- John Street Congregational Church Society *v.* John Street Church *et al.* Petition for instructions as to disposition of certain funds held in trust. Pending.
- Osgood, George C., *et al. v.* John Z. Rogers *et al.* Bill in equity to determine the disposition of the Rogers fund. Rescript. See 186 Mass. 238.
- Osgood, George C., *et al. v.* Charles R. Blaisdell *et al.* Petition for instructions under will of Sarah C. Kershaw. Pending.

Norfolk County.

- Kingsbury, Charlotte, estate of. Frederick D. Ely *et al.*, trustees. Petition for leave to sell real estate held in trust for charitable purposes. Attorney-General waived right to be heard.

Plymouth County.

Peterson, Deborah C., *et al. v. Unitarian Ladies' Aid Society.*
Pending.

Suffolk County.

Billings, Robert C., estate of. *Minns et al. v. Billings et al.* Bill in equity in the Supreme Judicial Court for instructions. Rescript. See 183 Mass. 126.

Brigham, Peter Bent, estate of. Herbert F. Brigham, petitioner. Appeal from circuit court. Bill dismissed.

Bussey, Benjamin, estate of. Bill in equity to authorize trustees of a public charitable trust to sell land. Decree.

Codman, Edmund D., *et al. v. Herbert F. Brigham and Attorney-General et al.* Bill in equity to determine the validity of certain provisions under the will of Peter Bent Brigham. Rescript, Jan. 7, 1905.

Fisk, Photius, estate of. Theodore H. Tyndale, trustee. Petition for discharge of surety on bond. Assented to petition.

Hood, George H., *et al. v. Massachusetts Baptist Missionary Society, Attorney-General and Treasurer.* Bill in equity for instructions regarding a charitable trust. Decree.

Mabie, William I., *et al. v. Edwin S. Gardner and Attorney-General.* Petition for instructions regarding a public charitable trust under will of Mary Redding. Pending.

Minot, Robert S., *et al., executors, v. Attorney-General et al.*

Minot, Robert S., trustee, *v. Attorney-General et als.* Petition for instructions regarding a charitable trust under the will of Luther Goodnow. Decree.

Minot, William, *v. Attorney-General et al.* Petition for instructions under the will of Thomas Thompson for carrying out certain trusts. Attorney-General waived right to be heard.

Sears, Francis B., trustee of Widows' Fund of Trinity Church. Petition to sell real estate. Attorney-General waived right to be heard.

Stone, Stephen S., estate of. Trustees of Westford Academy, petitioners. Petition for leave to apply certain trust funds. Pending.

Thompson, Thomas, estate of. Minot, trustee, *v. Attorney-General.* Bill in equity regarding a public charitable trust. Decree.

Tufts College, trustees, *v. Boston et al.* Petition to sell certain real estate given for charitable purposes under the will of Sylvanus Packard. Attorney-General waived right to be heard.

Williams, Charles, estate of. John Ballantyne, Jr., executor.
Petition to the Supreme Judicial Court for instructions.
Decree.

Worcester County.

- Allen, Sarah F., estate of. Clifford A. Cook, petitioner. Petition for appointment of trustee. Assented to petition.
- Bowker, Mary B., estate of. Asa A. Westcott, trustee. Petition for leave to sell real estate given for charitable purposes. Attorney-General waived right to be heard.
- Conlan, Winifred M., estate of. Thomas D. Beaven *et al.* Petition for appointment of trustee. Assented to petition.
- Cuddihy, Patrick, estate of. Thomas D. Beaven *et al.* Petition for appointment of trustee. Assented to petition.
- Dodd, Susan F., estate of. Arthur W. Dwyer, petitioner. Petition for appointment of trustee under charitable trust. Assented to appointment of Arthur W. Dwyer, trustee, without sureties.
- Gibbs, Ellen, estate of. Henry Hagne, executor. Petition for perpetual care of burial lot. Assented to petition.

SUITS CONDUCTED BY THE ATTORNEY-GENERAL

IN BEHALF OF STATE BOARDS AND COMMISSIONS.

The following cases have been reported to this department by State boards and commissions, to be conducted by the Attorney-General or under his direction, pursuant to the provisions of St. 1896, c. 490:—

1. METROPOLITAN PARK COMMISSION.

Petitions to the Superior Court for assessment of damages alleged to have been sustained by the taking of land by the said commission.

Essex County.

Murphy, Michael, *v.* Commonwealth. Pending before Supreme Judicial Court on exceptions.

Middlesex County.

Bean, Charlotte, *et als.* *v.* Commonwealth. Pending before full court. Rescript. See 186 Mass. 348.

Carret, James R., trustee, *v.* Commonwealth. Trial by jury.

Clark, David O., *et al.* *v.* Commonwealth. Settled.

Cordingly, William S., *v.* Commonwealth. Settled.

Curtis, Charles P., trustee, under the will of John M. Williams, *v.* Commonwealth. Pending.

Dresser, Mary A. P., *v.* Commonwealth. Trial by jury.

Dresser, William R., *v.* Commonwealth. Trial by jury.

Dwyer, Michael F., *v.* Commonwealth. Trial by jury.

Hemenway, Alfred, *v.* Commonwealth. Pending.

Jackson, Walton P. L., *v.* Commonwealth. Settled.

Lawrence, Samuel C., *v.* Commonwealth. Pending.

Lyon, Weltha G., *v.* Commonwealth. Settled.

McSweeney, Eugene G., *v.* Commonwealth. Pending before full court. Rescript. See 185 Mass. 371.

Neilan, Mary, *v.* Commonwealth. Pending.

O'Hara, Daniel, *et al.* *v.* Commonwealth. Settled.

Rawson, Warren W., *v.* Commonwealth. Settled.

Viles, Alden E., *et al.* *v.* Commonwealth. Settled.

Viles, Daniel F., *et al.* *v.* Commonwealth. Settled.

Whitney, John R., *et al.*, trustees, *v.* Commonwealth. Pending.

Norfolk County.

- Carter, Charles L., *et al. v. Commonwealth.* Settled.
 Guy, Charles W., *v. Commonwealth.* Settled.
 Klous, Seman, *v. Commonwealth.* Pending.
 Klous, Seman, *v. Commonwealth.* Trial before auditor. Pending
 before Supreme Judicial Court on exceptions.
 Mahoney, Dennis W., *et al. v. Commonwealth.* Trial by jury.
 Meek, William T., *v. Commonwealth.* Settled.
 New York, New Haven & Hartford Railroad Company *v. Com-*
monwealth. Pending.
 New York, New Haven & Hartford Railroad Company *v. Com-*
monwealth. Pending.
 Rice, Harry L., *v. Commonwealth.* Trial by jury.
 Scott, Jane W., *v. Commonwealth.* Settled.
 Scott, Jane W., *v. Commonwealth.* Settled.

Suffolk County.

- Bamford, Albert J., *et als. v. Commonwealth.* Trial before audi-
 tor. Settled.
 Boston & Revere Electric Street Railway Company *v. Common-*
wealth. Pending.
 Boston, City of, *v. Commonwealth.* Settled.
 Conness, John, *v. Commonwealth.* Trial by jury. Reserved for
 full court. Rescript. See 184 Mass. 541.
 Hall, Frances J., *et al. v. Commonwealth.* Pending.
 Hall, Frances J., *et als. v. Commonwealth.* Pending.
 Jessop, Ann Elizabeth, *v. Commonwealth.* Settled.
 Lynn & Boston Railroad Company *v. Commonwealth.* Pending.
 Mayers, John H., executor, *v. Commonwealth.* Trial by jury.
 Proctor, George F., *v. Commonwealth.* Pending.
 Read, Augustine H., *et al. v. Commonwealth.* Pending.
 Ring, Constant Q., *v. Commonwealth.* Pending.
 Rogers, Mary E., *v. Commonwealth.* Trial by jury.
 Ryan, F. Henrietta, *v. Commonwealth.* Settled.
 Skilton, Elizabeth A., *v. Commonwealth.* Referred to auditor.
 Settled on auditor's award.
 Skilton, Elizabeth A., *v. Commonwealth.* Settled.
 Somerby, Juliana H., *v. Commonwealth.* Pending.
 Streeter, Susan S. T., *v. Commonwealth.* Pending.
 Wadsworth, P. Briggs, *v. Commonwealth.* Trial by jury.
 Wadsworth, Susan, *v. Commonwealth.* Trial by jury.
 White, Daniel L., *v. Commonwealth.* Pending.
 White, Daniel L., *v. Commonwealth.* Pending.

Wyman, George W., *v.* Commonwealth. Trial by jury.
 Young, Elizabeth E., *v.* Commonwealth. Pending.
 Young, Elizabeth E., *v.* Commonwealth. Pending.

2. METROPOLITAN WATER AND SEWERAGE BOARD.

Petitions to the Supreme Judicial and Superior Courts for assessment of damages alleged to have been sustained by the taking of land, and rights and easements in land, by said Board.

Middlesex County.

Bennett, Anna M., *v.* Commonwealth. Pending.
 Bowditch, Elizabeth F., *et al. v.* Commonwealth. Settled.
 Buck, William H., *v.* Commonwealth. Settled.
 Cameron, Katherine S., *v.* Commonwealth. Settled.
 Childs, Eliza M., *et al. v.* Commonwealth. Pending.
 Dooley, Edward, *v.* Commonwealth. Pending.
 Dutton, Harry, *v.* Commonwealth. Pending.
 Dwyer, William, *v.* Commonwealth. Pending.
 Eichorn, Mary C., *v.* Commonwealth. Pending.
 Foster, Francis A., *v.* Commonwealth. Settled.
 Framingham Water Company *v.* Commonwealth. Settled.
 Gilmore, Agnes E., executrix, *v.* Commonwealth. Pending.
 Hasenfus, Clemense, *v.* Commonwealth. Pending.
 Irving, Anthony, *et al. v.* Commonwealth. Settled.
 Jackson, Samuel M., *et al.*, trustees, *v.* Commonwealth. Pending.
 Malden *v.* Commonwealth. Referred to commissioners. Pending.
 Malden, Melford and Melrose *v.* Commonwealth. Referred to commissioners. Pending.
 Medford, City of, *v.* Commonwealth. Referred to commissioners. Pending.
 Medford *v.* Commonwealth. Referred to commissioners. Pending.
 Melrose *v.* Commonwealth. Referred to commissioners. Pending.
 Milton, Henry S., *et al.*, trustees, *v.* Commonwealth. Pending.
 Perkins, Robert F., *v.* Commonwealth. Settled.
 Perry, Ralph L., *v.* Commonwealth. Settled.
 Preston, Marion W., *v.* Commonwealth. Pending.
 Reeves, Walter E., *v.* Commonwealth. Settled.
 Shaw, Francis, *v.* Commonwealth. Trial by jury.
 Skinner, Caroline E., *et al. v.* Commonwealth. Pending.
 Walker, Elmira S., *v.* Commonwealth. Settled.
 Ward, George A., *et al. v.* Commonwealth. Pending.
 Ward, Geo. A., *et al. v.* Commonwealth. Pending.
 Warren, Charles A., *v.* Commonwealth. Pending.

- Whitney, John R., *et al. v. Commonwealth et al.* Referred to a master. Pending.
- Williams, Lombard, *et al. v. Commonwealth.* Pending.
- Young, Charlotte W., *v. Commonwealth.* Settled.

Norfolk County.

- Hodgkinson, Charles C., *v. Commonwealth.* Trial by jury.
- Lowell, Charles, *v. Commonwealth.* Pending.
- Rice, Harry L., *v. Commonwealth.* Trial by jury.

Suffolk County.

- Gibbons, William H., *v. Commonwealth.* Pending.
- Holyhood Cemetery Association *v. Commonwealth.* Pending.

Worcester County.

- Allen, George S., *v. Commonwealth.* Reserved for full court. Pending.
- American Telephone and Telegraph Company *v. Commonwealth.* Settled.
- American Telephone and Telegraph Company *v. Commonwealth.* Settled.
- Bacon, Emory A., *v. Commonwealth.* Referred to commissioners. Pending.
- Bacon, Marinna, *v. Commonwealth.* Referred to commissioners. Pending.
- Barnes, Israel L., *et al. v. Commonwealth.* Pending.
- Berlin, Andrew, *v. Commonwealth.* Referred to commissioners. Settled.
- Boyd, Andrew, *v. Commonwealth.* Referred to commissioners. Settled.
- Bradley, Patrick, *v. Commonwealth.* Referred to Ernest H. Vaughan, George A. Sanderson and Charles E. Ware, commissioners. Pending.
- Bruce, William M., *v. Commonwealth.* Referred to commissioners. Pending.
- Buck, William H., *v. Commonwealth.* Settled.
- Buck, William H., *v. Commonwealth.* Settled.
- Burgess, Thomas H., *v. Commonwealth.* Referred to commissioners. Pending.
- Burpee, Edgar W., executor, *v. Commonwealth.* Pending.
- Burpee, Julia A. F., *v. Commonwealth.* Pending.
- Carville, Clarence, *v. Commonwealth.* Referred to commissioners. Pending.
- Carville, Clarence, *v. Commonwealth et al.* Pending.

- Chapman *et al. v. Commonwealth.* Referred to commissioners.
Pending.
- Chapman, Sarah, *v. Commonwealth.* Referred to commissioners.
Settled.
- Chapman, Walter E., *v. Commonwealth.* Referred to commissioners. Pending.
- Chapman, Walter E., *v. Commonwealth.* Referred to commissioners. Pending.
- Clemons, Benjamin H., *v. Commonwealth.* Referred to an auditor. Pending.
- Cotting, Chas. U., *et als. v. Commonwealth.* Referred to commissioners. Settled on award of commissioners.
- Counter, Fred, *v. Commonwealth.* Pending.
- Dee, John, *v. Commonwealth.* Referred to commissioners.
Settled.
- Dolan, Catherine, *v. Commonwealth.* Referred to commissioners.
Settled.
- Dorr, James, *v. Commonwealth.* Referred to commissioners.
Pending.
- Dorr, James, *v. Commonwealth.* Referred to commissioners.
Pending.
- Dorr, James, *v. Commonwealth.* Pending.
- Dusoe, Charles, *v. Commonwealth.* Referred to commissioners.
Pending.
- Fitch, Andrew L., *v. Commonwealth.* Pending.
- Flagg, Geo. A., *v. Commonwealth.* Pending.
- Foster, Amanda, *v. Commonwealth.* Pending.
- Goodale, Aaron, *v. Commonwealth.* Referred to commissioners.
Pending.
- Haskell, John C., *v. Commonwealth.* Referred to commissioners.
Settled.
- Hastings, George R., *et al. v. Commonwealth.* Settled.
- Hennis, Michael, *et al. v. Commonwealth.* Settled.
- Hills, Arthur T., administrator, *v. Commonwealth.* Settled.
- Hills, Arthur T., administrator, *v. Commonwealth.* Settled.
- Houghton, Robert C., *et al. v. Commonwealth.* Pending.
- Houghton, Robert C., *et al. v. Commonwealth.* Pending.
- Houghton, Robert C., *et al. v. Commonwealth.* Pending.
- Huntington, Whitman M., *v. Commonwealth.* Pending.
- Johnson, Addison F., executor, *v. Commonwealth.* Referred to auditor. Settled.
- Johnson, Charles S., *v. Commonwealth.* Referred to auditor.
Pending.
- Johnston, Robert, *v. Commonwealth.* Pending.

- Johnston, Robert, *v.* Commonwealth. Pending.
- Joyce, Bridget M., *v.* Commonwealth. Pending.
- Kershaw, James H., *v.* Commonwealth. Referred to commissioners. Pending.
- Keyes, George H., *v.* Commonwealth. Referred to commissioners. Settled.
- Keyes, Henry F., *v.* Commonwealth. Pending.
- Lafrade, Peter, *v.* Commonwealth. Referred to commissioners. Settled.
- Landy, Chas. C., *v.* Commonwealth. Pending.
- Lawrence, George D., *v.* Commonwealth. Referred to commissioners. Pending.
- Levi, Sarah, *v.* Commonwealth. Referred to commissioners. Pending.
- Lienhardt, Andrew, *v.* Metropolitan Water and Sewerage Board. Dismissed.
- Longley, George H., *v.* Commonwealth. Pending.
- Lovell, Angeline E., *et al. v.* Commonwealth. Referred to commissioners. Settled.
- Lovell, David B., *v.* Commonwealth. Referred to commissioners. Pending.
- Lundren, Per Arvid, *v.* Commonwealth. Pending.
- Mackesey, Thomas, *v.* Commonwealth. Settled.
- Moran, John E., *v.* Commonwealth. Settled.
- Nault, David, *v.* Commonwealth. Referred to commissioners. Settled.
- Newton, Silas, *v.* Commonwealth. Referred to commissioners. Settled.
- O'Brien, John F., *v.* Commonwealth. Pending.
- Ohnsman, Alexander, *v.* Commonwealth. Trial by jury.
- Peters, Stephen R., *v.* Commonwealth. Pending.
- Prescott, Martha E., *v.* Commonwealth. Referred to commissioners. Pending.
- Roger, William, *et al. v.* Metropolitan Water Board. Settled.
- Sawin, Charles B., *v.* Commonwealth. Referred to an auditor. Pending.
- Sirabian, Kayazan, *v.* Commonwealth. Referred to commissioners. Pending.
- Smith, Artemus C., *v.* Commonwealth. Referred to commissioners. Settled.
- Stone, John E., *v.* Commonwealth. Pending.
- Sweeney, Austin, *v.* Commonwealth. Pending.
- Tay, Ida E., *v.* Commonwealth. Pending.
- Thomas, A. Mason, *v.* Commonwealth. Referred to commissioners. Settled.

- Tobin, Mary A., *v.* Commonwealth. Referred to commissioners. Settled.
- Tonry, Margaret F., *v.* Commonwealth. Referred to commissioners. Pending.
- Tyson, Caroline E., *v.* Commonwealth. Pending.
- Warfield, Samuel R., *v.* Commonwealth. Referred to commissioners. Settled.
- Warfield, Samuel R., *v.* Commonwealth. Settled.
- Warner, Mary J., *v.* Commonwealth. Referred to commissioners. Pending.
- Warner, Mary J., *v.* Commonwealth. Pending.
- Warner, William H., *v.* Commonwealth. Settled.
- Welch, James E., *v.* Commonwealth. Pending.
- West Boylston *v.* Commonwealth. Pending.
- West Boylston *v.* Commonwealth. Pending.
- White, Lucy, *v.* Commonwealth. Referred to commissioners. Pending.
- Whiting, Alfred N., *v.* Commonwealth. Referred to commissioners. Pending.
- Wilder, Francis A., *et al.* *v.* Commonwealth. Referred to commissioners. Settled.
- Wilder, Francis A., *v.* Commonwealth. Referred to commissioners. Settled.
- Wood, Lucy A., *v.* Commonwealth. Referred to commissioners. Pending.
- Wood, Willie B., *v.* Commonwealth. Referred to commissioners. Settled.

3. MASSACHUSETTS HIGHWAY COMMISSION.

Petitions to the Superior Court for a jury to assess damages alleged to have been sustained by the taking of land, or injury to land, by said commission. Under agreement with the Commonwealth most of these cases are defended by the various towns in which the land is situated.

Barnstable County.

Crowell, Thomas H., *v.* Commonwealth. Pending.

Bristol County.

Davis, Charles H., *v.* Commonwealth. Settled.

Lynch, George, *et al.* *v.* Commonwealth. Pending.

Ryder, Nancy G., *v.* Commonwealth. Settled.

Seabury, Henry C., *v.* Commonwealth. Settled.

Seabury, Phœbe W., *v.* Commonwealth. Pending.

Essex County.

- Dow, Clara B., *v.* Commonwealth. Settled.
Dow, Granville S., *v.* Commonwealth. Settled.
Flanders, Betsey S., *v.* Commonwealth. Settled.
Flanders, Betsey S., *et al.* *v.* Commonwealth. Settled.
Salem Savings Bank *v.* Commonwealth. Pending.

Franklin County.

- Hale, Francis A., *v.* Commonwealth. Settled.
Wait, Myra J., *v.* Commonwealth. Settled.

Hampden County.

- Alvord, Edwin H., *v.* Commonwealth. Pending.
Barnes, Alice V., *v.* Commonwealth. Settled.
Hafey, James J., *v.* Commonwealth. Pending.

Middlesex County.

- Donovan, James H., *v.* Commonwealth. Pending.
Fisher, Caroline F., *v.* Commonwealth. Settled.
Griffin, John, *et al.* *v.* Commonwealth. Pending.
Hudson Co-operative Bank *v.* Commonwealth. Settled.
Temple, Theodore, *v.* Commonwealth. Settled.
Thimineur, Joseph, *v.* Commonwealth. Pending.

Norfolk County.

- Richards, John M., *v.* Commonwealth. Pending.
Wellington, Margaret J., *v.* Commonwealth. Settled.

Plymouth County.

- Daly, Julia M., *v.* Commonwealth. Pending.
McIntire, Bernard, *v.* Commonwealth. Pending.

Worcester County.

- Haas, Mary A., *et al.* *v.* Commonwealth. Pending.
Loring, John S., *v.* Commonwealth. Settled.
Sullivan, Timothy J., *v.* Commonwealth. Pending.
Twiss, Michael F., *v.* Commonwealth. Pending.
Warren, Alice E. M., *v.* Commonwealth. Pending.

4. BOARD OF HARBOR AND LAND COMMISSIONERS.

Petitions to the Superior Court for assessment of damages caused by the taking of land by said commissioners.

Plymouth County.

Damon, John B., *v.* Commonwealth. Pending.

Suffolk County.

Bent, William H., *et al.* *v.* Commonwealth. Trial by jury.

Butler, Philip H., *v.* Commonwealth. Pending.

Lamb, George, *et al.* *v.* Commonwealth. Pending.

Lamb, George, *et al.* *v.* Commonwealth. Pending.

5. MISCELLANEOUS CASES FROM ABOVE COMMISSIONS.

Bristol County.

Chace, Charles A., trustee, *v.* Commonwealth *et als.* Action of tort for damages caused by defects in State highway. Pending.

Seabury, Henry, *v.* Wm. R. Farnham *et al.* Petition for injunction to restrain defendants from entering upon plaintiff's premises in construction of State highway. Dismissed.

Seabury, Henry, *v.* Wm. R. Farnham *et al.* Action of tort for damages. Dismissed.

Essex County.

Hagerty, Hannah, administratrix of estate of Thomas Meehan, *v.* Commonwealth of Massachusetts and Lynn & Boston Railroad *et al.* Action of tort to recover damages for personal injuries received on State highway. Dismissed.

Middlesex County.

Bogigian, Hagop, Commonwealth *v.* Action of tort for trespass. Settled.

Bogigian, Helen J. C., Commonwealth *v.* Information to restrain trespass on Commonwealth's land. Settled.

Bradford, Edward S., Treasurer and Receiver-General, *v.* Charles A. Hall. Action of contract to collect betterments assessed by Metropolitan Park Commissioners. Settled.

Bradford, Edward S., Treasurer and Receiver-General, *v.* Mary A. Dowd. An action of contract to collect betterments assessed by Metropolitan Park Commissioners. Settled.

Cosgrove, Thomas E., Commonwealth *v.* Bill of complaint to compel defendant to remove buildings from line established by park commission. Pending.

Crowley, Patrick, estate of. Petition to enforce performance to convey real estate. Decree.

- Gilmore, Jerome, administrator of estate of Alexander Gilmore, *v. Dennis Shannahan et al.* and Metropolitan Water and Sewerage Board, trustees. Action of tort to recover damages for personal injuries. Pending.
- Mulready, William, Commonwealth *v.* Bill of complaint to require defendant to remove buildings from line established by park commission. Pending.
- Murray, John B., *v. Commonwealth of Massachusetts and Lynn & Boston Railroad et al.* Action of tort to recover damages for personal injuries received on State highway. Pending.
- Pike, Sophia F., *v. Metropolitan Park Commissioners.* Action of tort to recover for personal injuries to plaintiff. Settled.

Norfolk County.

- National Contracting Company *et al.*, Commonwealth *v.* Action of contract to recover on bond. Pending.

Suffolk County.

- Baker, Catherine A., *v. Henry H. Sprague et al.* Action of tort for damages caused by use of impure water furnished by water board. Pending.
- Baker, Fred W., *v. Henry H. Sprague et al.* Action of tort for damages caused by use of impure water furnished by water board. Pending.
- Baker, Freda E., *v. Henry H. Sprague et al.* Action of tort for damages caused by use of impure water furnished by water board. Pending.
- Baker, Walter J., *v. Henry H. Sprague et al.* Action of tort for damages caused by use of impure water furnished by water board. Pending.
- Bent, William H., *et al. v. Henry W. Swift et al.* Action of tort growing out of taking by Harbor and Land Commissioners of land and flats in South Bay. Pending.
- Boston, City of, *v. Commonwealth.* Petition under R. L., c. 12, §12, St. 1903, c. 161, to recover taxes on land taken by water board. Pending.
- Chadwick, Everett D., *v. Commonwealth of Massachusetts et al.* Bill in equity to determine party entitled to award by Metropolitan Park Commission for land taken in Milton. Settled.
- Conness, John, *v. Commonwealth.* Petition for a writ of *certiorari* to quash betterments assessed by Metropolitan Park Commissioners. Disposed of.
- Connolly, Mary E., *v. Charles G. Craib.* Action of tort to recover damages for personal injuries. Pending.

- Davis, James A., *et al. v. Commonwealth et al.* Petition to recover for labor and materials used in construction of sewer. Pending.
- Dings, Emma, *v. Metropolitan Water and Sewerage Board.* Action of tort. Damage caused by impure water furnished by the defendant. Pending.
- Dings, Martin, *v. Metropolitan Water and Sewerage Board.* Action of tort. Damages caused by impure water furnished by defendant. Pending.
- Doherty, James, *v. Edward W. Everson et al. and Metropolitan Water and Sewerage Board.* Action of tort. Damages caused by blasting. Pending.
- Doherty, James, *v. Commonwealth.* Petition for assessment of damages caused by blasting for metropolitan sewer. Pending.
- Doherty, Mary, *v. Metropolitan Water and Sewerage Board et al.* Action of tort. Damage caused by use of impure water furnished by defendant. Pending.
- Doherty, Mary E., *v. Metropolitan Water and Sewerage Board et al.* Action of tort. Damage caused by use of impure water furnished by the defendant. Pending.
- Duffy, Bernard, *v. Metropolitan Water and Sewerage Board.* Action of tort. Damages caused by impure water furnished by defendant. Pending.
- Duffy, Bernard, administrator of the estate of Joanna Duffy, *v. Metropolitan Water and Sewerage Board.* Action of tort. Damage caused by impure water furnished by defendant. Pending.
- Duffy, Edward, *v. Metropolitan Water and Sewerage Board.* Action of tort. Damage caused by impure water furnished by defendant. Pending.
- Duffy, Joseph H., *v. Metropolitan Water and Sewerage Board.* Action of tort. Damage caused by impure water furnished by defendant. Pending.
- Duffy, Mary R., *v. Metropolitan Water and Sewerage Board.* Action of tort. Damage caused by impure water furnished by the defendant. Pending.
- Duffy, Maurice, *v. Metropolitan Water and Sewerage Board.* Action of tort. Damage caused by impure water furnished by the defendant. Pending.
- Duffy, William J., *v. Metropolitan Water and Sewerage Board.* Action of tort. Damage caused by impure water furnished by the defendant. Pending.
- Duncan, Anna L., *v. Metropolitan Water and Sewerage Board.* Action of tort. Damages caused by impure water furnished by defendant. Pending.

- Galvin, Nellie B., *Commonwealth v.* Petition to compel the removal of buildings projecting upon park reservation. Decree.
- Hanscom, Hervey A., *et al.*, *Cambridge v.* Action of tort growing out of accident caused by laying water pipes by Metropolitan Water Board in Cambridge. Pending before full court. Rescript. See 186 Mass. 54.
- Hanscom, Hervey A., *et al.*, *Commonwealth v.* Action of contract growing out of accident caused by laying water pipes by Metropolitan Water Board in Cambridge. Pending.
- Hurley, John J., *Commonwealth v.* Bill of complaint to compel defendant to remove part of building encroaching on land of Commonwealth. Pending.
- Jones, J. Edwin, *et al. v.* Commonwealth. Petition for assessment of damages caused by breach of contract to construct high-level sewer in West Roxbury. Settled.
- Jones, J. Edwin, *et al. v.* Metropolitan Water and Sewerage Board. Action of tort. Damages caused by breach of contract to construct high-level sewer in West Roxbury. Settled.
- Jones, Richard, *v.* Metropolitan Water and Sewerage Board *et al.* Action of tort. Damage caused by use of impure water furnished by defendants. Pending.
- Mason, Jacob M., *v.* Commonwealth. Action of tort. Personal injury growing out of construction of Metropolitan Water Works. Dismissed.
- Metropolitan Water and Sewerage Board *v.* Leroy E. Coolidge. Bill in equity to prevent pollution of waters of Whitehall Pond in Hopkinton. Disposed of.
- Metropolitan Water and Sewerage Board *v.* City of Marlborough. Petition for injunction to restrain the city of Marlborough from polluting the water supply. Dismissed.
- Niland, Michael, *v.* Commonwealth. Petition for assessment of damages caused by blasting for metropolitan sewer. Pending.
- Niland, Michael, *v.* Edward W. Everson *et al.* and Metropolitan Water and Sewerage Board. Action of tort. Damages caused by blasting. Pending.
- Normile, Francis, *v.* Commonwealth of Massachusetts *et al.* Petition for a jury to assess damages caused by construction of sewer in Roxbury. Pending.
- Normile, Francis, *v.* Edward W. Everson & Co. and Henry H. Sprague *et al.* Action of tort.
- Old Colony Construction Company, *Commonwealth v.* Action of contract to recover on bond. Pending.

- Peirce, Alice, *v.* Commonwealth. Damages caused by accident to plaintiff on Massachusetts State highway in Wenham. Pending.
- Rohan, Mary, *v.* Commonwealth. Petition in the nature of an action of tort for personal injuries alleged to have been sustained in the construction of a section of the metropolitan sewer. Settled.
- Sprague, Henry H., *et al.* *v.* James Dorr. Bill in equity for an injunction to prevent the pollution of Quinapoxet River. Pending before full court. Rescript. See 185 Mass. 10.
- Urquhart, Carrie S., *v.* Metropolitan Water and Sewerage Board *et al.* Action of tort. Damage caused by impure water furnished by the defendant. Pending.
- Urquhart, Edwin N., *v.* Metropolitan Water and Sewerage Board *et al.* Action of tort. Damage caused by use of impure water furnished by defendant. Pending.
- Urquhart, N. Jefferson, *v.* Metropolitan Water and Sewerage Board *et al.* Action of tort. Damage caused by impure water furnished by the defendant. Pending.

Worcester County.

- Fitch, Andrew L., *v.* Commonwealth. Action of tort to recover for damage to land and water rights in West Boylston caused by the takings of the Metropolitan Water and Sewerage Board. Pending.
6. CASES ARISING UNDER St. 1899, c. 457, "AN ACT TO LIMIT THE HEIGHT OF BUILDINGS IN THE VICINITY OF THE STATE HOUSE."
- Dexter, Elsie, *et al.* *v.* Commonwealth. Pending.
- Dexter, Elsie, *et al.* *v.* Commonwealth. Pending.
- Dexter, Philip, *et al.* *v.* Commonwealth. Settled on award of commissioners.
- Dexter, Philip, *et al.* *v.* Commonwealth. Settled on award of commissioners.
- Dexter, Philip, *et al.* *v.* Commonwealth. Settled on award of commissioners.
- Forbes, J. Malcom, *et al.* *v.* Commonwealth. Pending.
- Goddard, George A., *v.* Commonwealth. Pending.
- Gray, Francis C., *et al.* *v.* Commonwealth. Pending.
- Heard, J. Theodore, *et al.* *v.* Commonwealth. Settled.
- Hollingsworth, Polly R., *v.* Commonwealth. Pending.
- Lewis, Elizabeth, *v.* Commonwealth. Pending.
- Loring, Anna P., *et al.* *v.* Commonwealth. Settled.
- Parker, Charles H., *et al.* *v.* Commonwealth. Pending.

- Peabody, Francis, *et al. v. Commonwealth.* Settled.
 Perry, Emily G., *v. Commonwealth.* Pending.
 Prince, Lucy Maria, *et al. v. Commonwealth.* Settled.
 Read, Elsie H., *v. Commonwealth.* Pending.
 Read, John, *et al.*, trustees and executors, *v. Commonwealth.*
 Settled.
 Ritchie, Rosa G., *v. Commonwealth.* Settled on award of com-
 missioners.
 Warren, Fiske, *v. Commonwealth.* Pending.

7. STATE BOARD OF CHARITY.

(a) Actions of contract pending in the Superior Court to re-
 cover charges for the support of insane paupers in State insane
 hospitals, under the provisions of R. L., c. 87.

Middlesex County.

- Commonwealth *v. Wayland.* Pending.
 Shaw, Treasurer, *v. Esau Cooper.* Pending.

Suffolk County.

- Bradford, Treasurer, *v. Geo. W. Green*, administrator. Settled.
 Bradford, Treasurer, *v. Alice H. Knight.* Pending.
 Bradford, Treasurer, *v. Waltham.* Pending.
 Bradford, Treasurer, *v. Waltham.* Pending.
 Marden, Treasurer, *v. Waltham.* Pending.
 Phillips, Treasurer, *v. Reading.* Settled.
 Phillips, Treasurer, *v. Stow.* Settled.

(b) Bastardy complaints brought under R. L., c. 82.

Middlesex County.

- Brent, Mary, *v. Homer C. Chaffee.* Pending.

Suffolk County.

- Johnson, Julia R., *v. Henry Williams.* Pending.
 McCormick, Mary C., *v. Harry Ward.* Settled.

Worcester County.

- Carr, Margaret, *v. Allen J. Warner.* Pending.

8. STATE BOARD OF HEALTH.

Appeals taken to the Superior Court from the rules and orders of the State Board of Health, under R. L., c. 75, § 119.

- Ashley, C. S., *v.* State Board of Health. Settled.
Canedy, Z. L., *v.* State Board of Health. Settled.
Cook, C. A., *v.* State Board of Health. Settled.
Dean, Randall, *v.* State Board of Health. Settled.
DeMoranville, C. A., *v.* State Board of Health. Settled.
Dunbar, Herman A., *v.* State Board of Health. Settled.
Hathaway, N. C., *v.* State Board of Health. Settled.
Howland, O., *v.* State Board of Health. Settled.
Lawry, L. G., *v.* State Board of Health. Settled.
Mackie, William A., *v.* State Board of Health. Settled.
Nelson, John H., *v.* State Board of Health. Reserved for Supreme
Judicial Court. Rescript. See 186 Mass. 330.
Nelson, S. T., *v.* State Board of Health. Settled.
Parker, Edward, *et al.* *v.* State Board of Health. Settled.
Perry, A. E., *v.* State Board of Health. Settled.
Perry, A. E., trustee, *v.* State Board of Health. Settled.
Pratt, Mary H., *v.* State Board of Health. Settled.
Sampson, I., *v.* State Board of Health. Settled.
Staples, N. G., *v.* State Board of Health. Settled.
White, A. F., *v.* State Board of Health. Settled.
Wright, William L., *v.* State Board of Health. Settled.

MISCELLANEOUS CASES.

- Ahern, Maurice, *v.* Newton & Boston Street Railway Company. Bill in equity in the Circuit Court of the United States to restrain the defendant from complying with the provisions of St. 1900, c. 197, relative to the transportation of scholars in the public schools by street railway companies. Pending.
- American Brake Shoe and Foundry Company. Failure of foreign corporation to file certificate of condition. Pending.
- American Can Company *v.* Commonwealth. Petition under St. 1903, c. 437, § 84, to recover tax paid by foreign corporation. Reserved for consideration of full court.
- American Can Company *v.* Commonwealth. Petition to recover back corporation tax. Pending.
- American Electric Tape Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- American Legion of Honor, Supreme Council, Attorney-General *ex rel. v.* Petition for injunction and receiver under R. L., c. 119. Henry A. Wyman appointed receiver.
- American Order of Druids, Attorney-General *v.* Petition for an injunction and the appointment of a receiver. Injunction issued, and John W. Worthington appointed receiver. Final decree.
- American Union Oil and Refining Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- American Union Oil and Refining Company. Failure of foreign corporation to file with the Commissioner of Corporations papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- American Unitarian Association *v.* Commonwealth. Petition to Superior Court for a jury to assess damages sustained to property on Bowdoin Street, caused by lowering of grade. Pending.
- American Writing Paper Company *et al.*, Attorney-General *v.* Petition for an injunction to restrain respondents from dumping material into tide water. Discontinued as to American Writing Paper Company.

- Amesbury & Salisbury Gas Light Company. Penalty for existence of sulphuretted hydrogen in its gas. Pending.
- Amesbury Publishing Company. Failure of foreign corporation to file certificate of condition. Pending.
- Andrews, George F. Claim for board of David W. Andrews at Westborough Insane Hospital. Pending.
- Arlington Gas Light Company. Violation of R. L., c. 58, § 14. Gas of said company less than sixteen candle-power. Referred to town counsel. Penalty paid to Winchester.
- Athol Gas and Electric Company. Violation of R. L., c. 58, § 14. Gas of said company contained sulphuretted hydrogen. Referred to town counsel. Penalty paid town.
- Atlantic Mutual Life Insurance Company, Insurance Commissioner *v.* Petition for an injunction and the appointment of a receiver. Dismissed, the company's charter having expired.
- Atlas Mutual Insurance Company, Frederick L. Cutting, Insurance Commissioner, *v.* Petition for injunction and receiver. Franklin T. Hammond appointed receiver. Pending.
- Atwater, William C., *v.* William M. Olin, Secretary of the Commonwealth, *et al.* Bill in equity, under the statute licensing coal dealers, to restrain the Secretary of the Commonwealth from issuing a license to William C. Atwater & Co. Incorporated. Pending.
- Avon Manufacturing Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- Ayer Light, Heat and Power Company. Failure to file with the Gas Light Commissioners the return required by St. 1886, c. 346, § 2, as extended by St. 1887, c. 382, § 2. Pending.
- Bank of Commerce of Virginia, assignee of Herbert R. Leonard, *v.* Commonwealth of Massachusetts. Petition to recover from Commonwealth for material furnished to contractor under contract with Harbor and Land Commissioners. R. D. Weston-Smith appointed master. Settled..
- Barker, Annie E. Claim for tide water displaced in Boston harbor. Pending.
- Bauton Automobile Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Pending.
- Bay State Beneficiary Association, Attorney-General *ex rel.* Insurance Commissioner *v.* Petition to the Supreme Judicial Court of Suffolk County for an injunction and appointment of a receiver. Injunction issued, and Henry C. Hyde, Esq., of West Springfield, appointed temporary receiver. Pending.

- Berkshire Health and Accident Association, Attorney-General *ex rel.* Insurance Commissioner *v.* Petition for an injunction and the appointment of a receiver. Injunction issued, and Alpheus Sanford, Esq., of Boston, appointed receiver. Final decree.
- Berwind-White Coal Mining Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Pending.
- Blake, Martha L., *v.* Commonwealth. Petition to Superior Court for damages caused by lowering the grade of Bowdoin Street. Pending.
- Boston & Amesbury Manufacturing Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Pending.
- Boston *v.* Commonwealth. Sewer assessment on Rutherford Avenue, Charlestown. Pending.
- Boston, City of. Claim for tide water displaced in Fort Point channel. Disposed of.
- Boston Mosaic Company. Failure of foreign corporation to file certificate of condition. Pending.
- Boston Mutual Life Insurance Company. Violation of anti-rebate law, R. L., c. 118, § 68. Referred to district attorney of Suffolk County for action.
- Boston Society of New Jerusalem *v.* Commonwealth. Pending.
- Boston Terminal Company, Commonwealth *v.* Superior Court, Suffolk County. Reserved for full court. Rescript. See 185 Mass. 281. Settled.
- Boston Terminal Company, Commonwealth *v.* Superior Court, Suffolk County. Reserved for full court. Rescript. See 185 Mass. 281. Settled.
- Boston Yacht Club, petitioner. Petition to the Court of Land Registration to register title to land in Marblehead. Pending.
- Boyle, John, *v.* Hollis M. Blackstone, Superintendent State Farm. Action of contract for labor performed by plaintiff while an inmate of the State Farm. Pending.
- Bragg, Henry W., *et al.* *v.* Commonwealth. Petition to Superior Court for Suffolk County for allowance of claim of auditors for examination into affairs of Massachusetts Benefit Life Association. Dismissed.
- Bridges, Benjamin F. (Warden Massachusetts State Prison), *v.* Edward D. Bean. Claim for goods furnished to the defendant. Disposed of.
- Brigham, Levi H., *In re.* Petition for *habeas corpus.* Writ issued.

- Brockton Gas Light Company. Violation of R. L., c. 58, § 14. Gas of said company less than sixteen candle-power. Referred to city. Penalty paid.
- Brookline Firemen's Relief Association. Failure to file return with Insurance Commissioner. Disposed of.
- Brownville Maine Slate Company. Failure of foreign corporation to file certificate of condition. Pending.
- Brush Chemical Company. Failure to file return required by St. 1891, c. 341. Disposed of.
- Butterfield Gold Mining and Milling Company. Failure of foreign corporation to file certificate of condition. Disposed of.
- Cambridge, Bradford *v.* Claim for tide water displacement. Settled.
- Cambridge, City of, Commonwealth *v.* Claim for board of paupers. Pending.
- Cambridge Gas Light Company. Violation of R. L., c. 58, § 14. Gas of said company contained an excess of sulphur. Penalty paid to Somerville and Cambridge.
- Cambridge Gas Light Company. Penalty under R. L., c. 58, § 14. Placed on file.
- Carbonating Apparatus Company. Failure of foreign corporation to file certificate of condition. Pending.
- Chaffee, Clara. Claim against the city of Newton for board at Worcester Insane Hospital. Pending.
- Chapman, Roscoe E., *v.* Trustees of Massachusetts Hospital for Dipsomaniacs and Inebriates. Claim for services. Pending.
- Chase, Henry L. Claim for baker's oven sold by Westborough Insane Hospital. Placed on file.
- Chelsea Express Despatch Company. Claim for fees required for filing certificates of condition. Settled.
- Chelsea Gas Light Company. Violation of R. L., c. 58, § 14. Gas of said company less than sixteen candle-power. Referred to city.
- Chelsea Mutual Benefit Association, Attorney-General *ex rel.* Insurance Commissioner *v.* Petition for injunction and receiver. Injunction issued and George T. Roberts appointed receiver. Pending.
- Chester Goodale Marble Company. Failure of foreign corporation to file certificate of condition. Pending.
- Clinton Gas Light Company, Attorney-General *v.* Petition to the Supreme Judicial Court for Suffolk County for dissolution and the appointment of a receiver under St. 1894, c. 476. Dismissed.
- Cohen, Simon. Petitioner for writ of *habeas corpus*. Petition denied.

- Collins,* Joseph W., *et al. v.* James B. Hamblin. Petition to require the respondent to construct a fishway in dam on Acushnet River. Pending.
- Columbia Electric Company. Claim for corporation tax, 1901. Company in bankruptcy. Claim proved. Pending.
- Commonwealth of Massachusetts *v.* City of Boston *et als.* Superior Court, Suffolk County. Pending.
- Commonwealth of Massachusetts *v.* City of Boston *et als.* Superior Court, Suffolk County. Pending.
- Commonwealth Optical Company. Filing false returns. Referred to District Attorney Rockwood Hoar.
- Consolidated Sole Fastening Machine Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- Corporate-Agent Company. Failure of foreign corporation to file certificate of condition. Pending.
- Curtis Manufacturing Company, petitioner. Petition to the Court of Land Registration to register the title to land on Curtis Pond. Pending.
- Cushing, Lawrence B., *et al. v.* Commonwealth. Petition to Superior Court for damages caused by widening Bowdoin Street. Pending.
- Cutter, Olin W., *v.* Commonwealth. Petition for damages growing out of construction of armories in Cambridge and New Bedford. Pending.
- Cutting, Frederick L., Insurance Commissioner, *v.* The Charles River Mutual Insurance Company. Petition for injunction. Decree.
- Damon, George L. Claim for tide-water displacement. Pending.
- Delsarte Manufacturing and Supply Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Pending.
- Dennis, Town of. Claim for board of Nellie F. Hillborn at Taunton Insane Hospital. Disposed of.
- Dexter, William A., *et al. v.* Commonwealth. Petition to Superior Court for a jury to assess damages caused by taking land on Mt. Vernon Street, Boston. Settled.
- Dinsmore Manufacturing Company. Failure of foreign corporation to file certificate of condition. Pending.
- Dougherty, John O. Claim for board of Margaret O. Dougherty at Westborough Insane Asylum. Pending.
- Drucker, Walter A. Claim for Gas and Electric Light Commissioners' tax. Disposed of.

- Dyson, Joseph M., *v.* Felix R. Wendelschafer. Petition for injunction to restrain the defendant from using the Worcester Theatre. Injunction issued.
- Eagle Life Association, Attorney-General *ex rel. v.* Petition for an injunction and the appointment of a receiver. Injunction issued, and Alfred F. Lilley, Esq., appointed receiver. Pending.
- East Boston Company, petitioner. Petition to Court of Land Registration for registration of title to petitioner's land. Pending.
- Eastern Commission and Importing Company. Failure of foreign corporation to file certificate of condition. Pending.
- Eastern Massachusetts Masonic Mutual Relief Association, Attorney-General *v.* Petition for an injunction and the appointment of a receiver. Injunction issued, and Eugene C. Upton appointed receiver. Final decree.
- Electric Light and Power Company of Abington and Rockland. Penalty for filing annual report late. Pending.
- Ellis, George H., Attorney-General *ex rel.* Harbor and Land Commissioners *v.* Information in the Supreme Judicial Court for Middlesex County to protect the waters of a great pond under St. 1888, c. 318. Referred to a master. Pending.
- Eppens, Smith & Weemann Company. Failure of foreign corporation to file certificate of condition. Pending.
- Federal Stock and Grain Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- Fidelity Benefit Association, Attorney-General *ex rel. v.* Petition for an injunction and the appointment of a receiver. Injunction issued, and A. E. Denison appointed receiver. Pending.
- Firemen's Fire Insurance Company, Insurance Commissioner *v.* Petition to the Supreme Judicial Court for Suffolk County for an injunction to restrain the defendant from removing its books and papers from the Commonwealth, and the appointment of a receiver to recover its capital stock distributed without authority of law. Injunction issued. Defendant recovered its capital stock and deposited it with the International Trust Company, as trustee. Pending.
- Fottler, Lucy Ann, *et al. v.* Commonwealth. Petition to Superior Court for damages caused by lowering grade of Bowdoin Street. Pending.
- Foxboro Foundry Company. Failure of foreign corporation to file certificate of condition. Pending.

- Franklin Mining Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Pending.
- Fraternal Aid, Order of, Attorney-General *ex rel.* Insurance Commissioner *v.* Petition to the Supreme Judicial Court for Suffolk County for an injunction and the appointment of a receiver. Injunction issued, and Winthrop H. Wade, Esq., of Boston, appointed receiver. Pending.
- Freligh, E. V. Claim for board of Mary E. Freligh at Westborough Insane Hospital. Pending.
- Gardner Gas, Fuel and Light Company. Penalty for filing annual report late. Pending.
- Gas and Electric Protective Company. Failure of foreign corporation to file certificate of condition. Pending.
- Gauley Coal Land Company. Failure of foreign corporation to file certificate of condition. Pending.
- George H. Sampson Co. *v.* Commonwealth *et als.* Bill of complaint. Pending.
- George H. Wood Company. Attorney-General *v.* Petition for an injunction to restrain respondent from dumping material into tide water. Pending.
- Globe Investment Company, Savings Bank Commissioners *v.* Petition to the Supreme Judicial Court for Suffolk County, under St. 1888, c. 387, for an injunction and the appointment of a receiver. Injunction granted, and Henry A. Wyman appointed receiver. Pending.
- Globe Newspaper Company *v.* Commonwealth. Writ of error. Pending.
- Gloucester Water Supply Company, Commonwealth *v.* Corporation tax for 1895. Pending.
- Gold Tunnel Durango Bay Mining Company. Foreign corporation tax for 1901 and 1902. Pending.
- Golden Rule Alliance, Attorney-General *ex rel.* *v.* Petition for an injunction and the appointment of a receiver. Injunction issued, and William H. Preble appointed receiver. Pending.
- Goodridge, Clara L., *et al.*, executors, *v.* Commonwealth. Petition for assessment of damages for taking by Commonwealth of leasehold estate on Mt. Vernon Street. Settled.
- Gough, Patrick J., *v.* Commonwealth. Writ of error. Pending.
- Greenfield, Town of. Claim for board of James Kingston at Northampton Insane Hospital. Pending.
- Greenfield, Town of. Failure to file assessors' return. Disposed of.
- Greensboro Electric Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.

- Guardian Life Insurance Company, Insurance Commissioner *v.* Petition to the Supreme Judicial Court for Suffolk County for an injunction and the appointment of a receiver. Injunction issued, and Frank D. Allen, Esq., appointed receiver. Pending.
- Hagar Shoe Machinery Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- Hallwood Cash Register Company. Failure of foreign corporation to file certificate of condition. Pending.
- Hampden Trust Company, Commonwealth of Massachusetts *v.* Petition for injunction and receiver. Injunction issued and Wm. W. McClench and Henry H. Bosworth made permanent receivers. Pending.
- Hampshire Savings Bank, Savings Bank Commissioners *v.* Petition to the Supreme Judicial Court for Suffolk County for an injunction and the appointment of a receiver. Injunction issued, and Richard W. Irwin, Esq., and Benjamin E. Cook, Esq., appointed receivers. Pending.
- Hanson Creek Lead Mines Company. Claim for mining taxes for years 1900, 1901 and 1902. Pending.
- Hanson, Lydia W., *v.* Commonwealth. Petition for damages caused by lowering grade of Bowdoin Street. Pending.
- Haverhill Gas Light Company *v.* Gas and Electric Light Commissioners *et al.* Bill in equity in the Circuit Court of the United States to restrain the Board from carrying out an order to decrease the price of gas in Haverhill. Pending.
- Hendry, Frank H., Commonwealth *v.* Petition to recover money paid by Preferred Mercantile Company. Pending.
- Herrick, Frederick W., Attorney-General *v.* Petition in equity to gain possession of Snake Island in Chebacco Lake. Referred to Alden P. White, auditor. Pending.
- Hersey, Albert A., *v.* Commonwealth *et als.* Bill in equity to recover for labor and materials furnished in construction of metropolitan sewer in Melrose. Pending.
- Hill, Mary, petitioner. Petition for writ of *habeas corpus*. Petition dismissed on hearing.
- Holyoke *v.* Commonwealth. Petition to reimburse the city of Holyoke for board of pauper. Settled.
- Hough, Alexander B., Commonwealth *v.* Claim for board of Julia F. Hough at Worcester Insane Hospital. Pending.
- Hudson, Pelham & Salem Street Railway Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.

- Humbert First Artillery Mutual Benefit Association, Insurance Commissioner *v.* Failure to make annual report to Insurance Commissioner required by St. 1899, c. 442, § 19. Disposed of.
- Hurley, Timothy, *v.* Commonwealth. Writ of error. Pending.
- Hutchinson, Ida. Claim for services of nurse furnished by the Westborough Training School for Nurses. Pending.
- Hyde Park Electric Light Company. Penalty for filing annual report late. Pending.
- Independent Order Ahawas Israel, Attorney-General *ex rel.* *v.* Petition for injunction. Injunction issued.
- Industrial Casualty Company, Attorney-General *ex rel.* *v.* Petition for injunction and receiver. Jeremiah Smith, Jr., appointed receiver.
- Ingliss, William T., *et al.* *v.* Commonwealth. Petition to Superior Court for a jury to assess damages sustained to property on Bowdoin Street, caused by lowering of grade. Settled.
- International Rubber and Trading Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- Iowa Light, Heat and Power Company. Failure to file annual return with Board of Gas and Electric Light Commissioners. Placed on file.
- Iowa Light, Heat and Power Company. Claim for Gas and Electric Light Commissioners' tax. Placed on file.
- Italian Associates of Fall River, Insurance Commissioner *v.* Failure to make annual report to Insurance Commissioner required by St. 1899, c. 442, § 19. Pending.
- Jacobson, Henning, *v.* Commonwealth. Petition for a writ of error to the Superior Court in the matter of the constitutionality of the vaccination statutes. Rescript. See 183 Mass. 242. Pending before United States Supreme Court.
- John Stuart Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Pending.
- Jones & LeBaron. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- Journal for Investors Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- Kaiser Hat and Cap Company. Claim for corporation tax for 1897. Company in insolvency. Claim proved. Pending.
- Kelly, Michael J., *et al.* *v.* John Walsh *et al.*, trustees. Action of contract. Trustees discharged.
- Kennedy, George C., *et al.*, Bradford, Treasurer, *v.* Claim for tide-water displacement. Pending.

- Knight, Alice H., Westborough Insane Asylum *v.* Claim for board of insane patient in hospital. Referred to N. N. Jones of Newburyport for collection. Pending.
- Knights of Justice, Order of, Insurance Commissioner *v.* Failure to make annual report to Insurance Commissioner required by St. 1899, c. 442, § 19. Pending.
- LaMoss, Ervin, *v.* Commonwealth. Petition to Superior Court for a jury to assess damages sustained to property on Bowdoin Street caused by lowering of the grade of Bowdoin Street. Pending.
- Lee, Thompson Company. Failure of foreign corporation to file certificate of condition. Pending.
- Livingstone, Murray V. Claim for board of Margie A. Livingstone in Westborough Insane Hospital. Pending.
- Lyman, Mary E. Claim for board of Albert C. Lyman in Westborough Insane Hospital. Pending.
- Malden and Melrose Gas Light Company. Violation of R. L., c. 58, § 14. Gas of said company contained sulphuretted hydrogen. Placed on file.
- Malden and Melrose Gas Light Company. Violation of R. L., c. 58, § 14. Gas of said company contained excess of sulphur. Referred to city. Penalty paid to Malden.
- Malden Electric Company. Claim for Gas and Electric Light Commissioners' tax. Pending.
- Manning, J. C., claim against, for damage to State highway. Placed on file.
- Marblehead Savings Bank, Savings Bank Commissioners *v.* Petition for injunction. Decree of injunction.
- Marlborough Gas Light Company. Violation of R. L., c. 58, § 14. Gas of said company less than sixteen candle-power. Referred to city solicitor.
- Masons Fraternal Accident Association of America, Attorney-General *v.* Petition for an injunction and the appointment of a receiver. Injunction issued, and Henry C. Bliss, Esq., appointed receiver. (James B. Carroll has been appointed receiver in place of Mr. Bliss, who has died.) Final decree.
- Massachusetts Masonic Life Association, Attorney-General *ex rel.* Insurance Commissioner *v.* Petition to the Supreme Judicial Court for Suffolk County for an injunction and a receiver under St. 1896, c. 515, § 6. Injunction issued, and Jonathan Barnes, Esq., of Springfield, appointed receiver. Pending.
- McArthur Brothers Company. Failure of foreign corporation to file certificate of condition. Pending.

- McDowell, J. F., claim against, for merchandise furnished by State Prison. Pending.
- McEvoy, John W., Public Administrator, *v.* Charles F. Wyman, Russian Vice-Consul. Appeal from decree of Probate Court appointing John W. McEvoy public administrator to administer the estate of Julius Sapoquick. Pending.
- McQuesten, George, petitioner. Petition to the Court of Land Registration to register title to land in Marblehead. Pending.
- Meany, Thomas. Claim for use of Commonwealth's land in South Boston. Placed on file.
- Medway Electric Light and Power Company. Failure to file with Gas Light Commissioners the return required by St. 1886, c. 346, § 2, as extended by St. 1887, c. 387, § 2. Pending.
- Melrose Mutual Fire Insurance Company, Insurance Commissioner *v.* Petition to the Supreme Judicial Court for Suffolk County for an injunction and the appointment of a receiver. Injunction issued, and Alpheus Sanford, Esq., appointed receiver. Pending.
- Metcalf, Albert, Bradford *v.* Claim for tide-water displacement. Appeal taken to full court. Rescript. See 185 Mass. 205.
- Metropolitan Electric Third Rail and Traction Company. Failure of foreign corporation to file with Commissioner of Corporations the papers required by R. L., c. 126, § 4. Referred to Oliver Stevens, district attorney. Disposed of.
- Middleborough *v.* New York, New Haven & Hartford Railroad Company and the Commonwealth. Petition for damages in the Superior Court for Plymouth County, growing out of taking of land for the purpose of abolishing grade crossings in Middleborough. Pending.
- Miles Morgan Cigar Company. Failure of foreign corporation to file certificate of condition. Pending.
- Milford Electric Light and Power Company, Attorney-General *v.* Petition to the Supreme Judicial Court for Suffolk County for dissolution and the appointment of a receiver, under St. 1894, c. 476. Dismissed.
- Milford Gas Light Company. Violation of R. L., c. 58, § 14. Gas of said company less than sixteen candle-power. Referred to town selectmen.
- Montague Electric Light and Power Company. Penalty for filing annual report late. Pending.
- Moody, Convers. Claim for board of Augusta A. Moody in Westborough Insane Hospital. Pending.

- Morgan, Jay H., Lyman School for Boys *v.* Action of contract for services of boy placed out by trustees. Pending.
- Mount Hope Ferry Company. Failure to file return with Commissioner of Corporations. Pending.
- Mt. Pleasant Quarry Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- Mystic Wharf and Storage Company, Attorney-General *v.* Petition for an injunction to restrain respondent from dumping material into tide water. Pending.
- Nantucket Electric Company. Penalty for filing annual report late. Pending.
- National Contracting Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- National Surety Company, Attorney-General *v.* Information to require defendant to pay fine incurred by false statement on bond. Penalty paid and petition dismissed.
- Neall, Frank L., *et al. v. Commonwealth et al.* Bill of complaint to establish a lien on funds held by treasurer under R. L., c. 118, § 94. Pending.
- New England Association. Failure of foreign corporation to file with the Commissioner of Corporations the papers required by R. L., c. 126, § 4. Referred to Oliver Stevens, district attorney. Disposed of.
- New England Benefit Association of Milford, Attorney-General *ex rel. v.* Petition for an injunction and the appointment of a receiver. John W. Worthington of Boston appointed receiver. Final decree.
- New England Electric Trades Association. Failure of foreign corporation to file certificate of condition. Pending.
- New England Metal Company. Failure of foreign corporation to file certificate of condition. Pending.
- Newburyport & Amesbury Horse Railroad Company. Railroad Commissioners' tax, 1899. Disposed of.
- Newburyport, City of. Claim for board of Margaret H. Knight at Westborough Insane Hospital. Pending.
- Newburyport Gas and Electric Co. Violation of R. L., c. 58, § 14. Gas of said company less than sixteen candle-power. Referred to mayor of Newburyport.
- Niles Trust Estate. Claim for Gas and Electric Light Commissioners' tax. Pending.
- North American Trust, Attorney-General *v.* Violation of R. L., c. 73, §§ 7, 8, and St. 1904, c. 427. Dismissed.

- Northeastern Indemnity Association, Attorney-General *ex rel. v.* Petition for an injunction and the appointment of a receiver. Injunction issued, and F. C. Nash, Esq., appointed receiver. Final decree.
- Northern Mutual Relief Association, Attorney-General *ex rel.* Insurance Commissioner *v.* Petition to the Supreme Judicial Court for Suffolk County for an injunction and the appointment of a receiver. Injunction granted, and Samuel H. Hudson of Boston appointed receiver. Pending.
- O'Connell, Bernard D., *v.* Albert Mason *et al.* Action of tort in the Circuit Court of the United States. Bill dismissed.
- O'Connell, Bernard D., *v.* Albert Mason *et al.* Writ of error. Judgment of Circuit Court affirmed.
- O'Reilly, Richard P., *v.* Samuel Dalton *et als.* Petition to the Supreme Judicial Court for Suffolk County for a writ of *certiorari*, claiming want of jurisdiction by the board appointed under St. 1893, c. 367, § 65, in the matter of the reorganization of the Eighth Regiment of Infantry, M. V. M. Pending.
- Order of New England, Attorney-General *v.* Petition for an injunction and receiver. Burton P. Gray appointed receiver. Final decree.
- Paine, Robert Treat, *v.* Commonwealth. Petition to Superior Court for a jury to assess damages sustained to property on Mt. Vernon Street, caused by the lowering of the grade of Mt. Vernon Street. Pending.
- Peare, George R., *v.* Socialist Labor Party. Petition to the Municipal Court for Suffolk County for an inquest, under St. 1898, c. 548, § 305. Pending.
- Pentila, Andrew, *v.* Bakkila Helgias and Joseph H. Scott (superintendent of the Massachusetts Reformatory). An action of tort in the District Court for Middlesex County. Disposed of.
- People's Gas and Electric Company of Stoneham. Violation of R. L., c. 58, § 14. Gas of said company contained sulphuretted hydrogen. Referred to town counsel.
- Peterson, Jacob J. S., Wm. B. de las Casas *et al. v.* Petition for injunction to restrain respondent from cutting ice in Charles River in Waltham. Pending.
- Phœnix Bridge Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- Phœnix Iron Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- Pittsburg Steel Construction Company. Failure of foreign corporation to file certificate of condition. Pending.

- Pittsfield Coal Gas Company. Violation of R. L., c. 58, § 14. Gas of said company contained twenty grains of sulphur. Referred to town for action. Penalty paid to town of Dalton.
- Pittsfield Electric Street Railway Company. Petition by the Commonwealth for alteration of tracks of said railroad in Dalton. Pending.
- Plomo Specialty Manufacturing Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Pending.
- Plymouth Gas Light Company. Penalty for filing annual report late. Pending.
- Polish Fraternal Benefit Society of St. Stainslaw Bishop, Incorporated. Failure to file return with Insurance Commissioner. Pending.
- Portuguese Beneficent Association of St. Michael the Archangel, Incorporated. Failure to file return with Insurance Commissioner. Disposed of.
- Preferred Mercantile Company of Boston, Attorney-General *v.* Information in nature of *quo warranto* to annul charter for misuse. Pending.
- Progressive Fraternity, Incorporated, Attorney-General *ex rel. v.* Petition for an injunction and the appointment of a receiver. Injunction issued, and John W. Worthington appointed receiver. Final decree.
- Prudential Home Purchasing Association, Attorney-General *v.* Petition for injunction and receiver. Injunction issued, and Burton Payne Gray appointed receiver. Final decree.
- Pugwash Consolidated Mining and Smelting Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Unable to locate.
- Queen Bee Gold Mining Company. Failure of foreign corporation to file certificate of condition. Pending.
- Quincy Granite Quarries Company. Failure of foreign corporation to file certificate of condition. Pending.
- R. I. Sherman Manufacturing Company. Violation of St. 1903, c. 95, as to use of great seal of Commonwealth. Referred to District Attorney Oliver Stevens.
- Radford, Harry L., *v.* Commonwealth. Petition for damages caused by injury to automobile on State highway. Dismissed.
- Revere, Town of. Failure to file assessors' return. Disposed of.
- Rice, Fannie. Claim for board in Westborough Insane Hospital. Pending.
- Richards, Albin M., Treasurer of the Commonwealth, *v.* Action of contract for tide water displaced in Mystic River. Disposed of.

- Rosa Marie Sugar Company. Failure to file papers required of a foreign corporation. Pending.
- Royal Exchange Assurance, Attorney-General *ex rel. v.* Information to recover penalties incurred under insurance laws. Settled.
- S. T. MaDan Company, Commonwealth *v.* Action of contract to recover for goods bought of Massachusetts State Prison. Pending.
- Safety Appliance Equipment Company. Failure of foreign corporation to file with Commissioner of Corporations papers required by R. L., c. 126, § 4. Referred to Oliver Stevens, district attorney. Disposed of.
- Salem, City of, Commonwealth *v.* Action of tort to recover penalty. Disposed of.
- Salem Gas Light Company. Violation of R. L., c. 58, § 14. Gas of said company less than sixteen candle-power. Penalty paid to Salem.
- Sargent, Clara J., *v.* State Board of Lunacy and Charity. Superior Court, Essex County. Appeal on a complaint charging neglect of children under St. 1882, c. 181. Pending.
- Scully, John T., *v.* Commonwealth. Petition to recover amount paid by plaintiff for tide water displaced in Mystic River. Appeal to Supreme Judicial Court dismissed. Pending in Superior Court.
- Scully, John T. Claim for tide water displaced in the Charles River. Pending.
- Sherman, Everett F. Claim for board of Daniel W. Andrews in Westborough Insane Hospital. Pending.
- Shoe and Leather Mercantile Agency, Benjamin F. Bridges, Warden, *v.* State Prison claim. Pending.
- Sibley, Richard C. Claim for tide-water displacement. Disposed of.
- Smith, Maurice, *v.* Commonwealth. Petition for a writ of error to the Superior Court to reverse sentence. Pending.
- Society of Holy Mary of Carpignano, etc. Failure to file return with Insurance Commissioner. Disposed of.
- South Deerfield Gas Company. Failure to file annual report on time. Pending.
- South Hadley Gas Company. Penalty for filing annual report late. Pending.
- South Shore Masonic Mutual Relief Association of Massachusetts, Insurance Commissioner *v.* Petition to the Supreme Judicial Court for Suffolk County, under St. 1895, c. 340, for an injunction and the appointment of a receiver. Injunction issued, and J. H. Flint appointed receiver. Pending.

- Spencer Gas Company. Violation of R. L., c. 58, § 14. Gas of said company contained sulphuretted hydrogen. Pending.
- Spencer, H. Warren, claim against, for board of Emma Wales at Massachusetts Hospital for Epileptics. Pending.
- St. Joseph Brotherhood Benefit Association, Incorporated. Failure to file return with Insurance Commissioner. Disposed of.
- Starkey, Amos, Commonwealth *v.* Action to recover money paid by Preferred Mercantile Company. Pending.
- Stillings *et al.*, Preferred Mercantile Company, Attorney-General *v.* Information in equity. Preliminary injunction issued.
- Stone, Joseph, Bradford *v.* Claim for tide water displacement. Reserved for consideration of full court. Rescript. See 185 Mass. 205.
- Sudilkover Benefit Society, Incorporated. Failure to file return with Insurance Commissioner. Unable to locate.
- Suffolk Masonic Mutual Relief Association, Attorney-General *v.* Petition to the Supreme Judicial Court for Suffolk County for an injunction and the appointment of a receiver, under St. 1899, c. 442, § 24. Injunction granted, and Edward T. Pigeon, Esq., secretary of the association, appointed receiver. Final decree.
- Suffolk Mutual Fire Insurance Company, Insurance Commissioner *v.* Petition to the Supreme Judicial Court for Suffolk County for an injunction and the appointment of a receiver, under the provisions of St. 1894, c. 522, § 7. Injunction issued, and James C. Davis, Esq., appointed receiver. Final decree.
- Sun Indemnity Assurance Society, Attorney-General *v.* Petition for an injunction and the appointment of a receiver. Injunction issued, and Prescott Keyes, Esq., appointed receiver. Pending.
- Supreme Council of United Fellowship, Insurance Commissioner *v.* Petition to the Supreme Judicial Court for Suffolk County, under St. 1895, c. 340, for an injunction and the appointment of a receiver. Injunction issued, and Oscar Storer, Esq., of Boston, appointed receiver. Pending.
- Tarr, Caroline D. Claim for board of Thomas L. Tarr at Danvers Insane Hospital. Pending.
- Taunton Safe Deposit and Trust Company, Commonwealth of Massachusetts *v.* Petition for injunction and appointment of receiver. Frederick S. Hall appointed receiver.
- Taylor, Edgar B., *et al.* *v.* Robert Wilson and the Commonwealth of Massachusetts. Action of contract. Pending.
- Templeton Street Railway Company, Wm. E. McClintock *et als.*, Massachusetts Highway Commission *v.* Petition for mandatory writ of injunction to compel compliance with orders of board changing location of tracks of said company. Pending.

- Templeton Street Railway Company, Commonwealth *v.* Petition for mandamus. Pending.
- Thomaston Face and Ornamental Brick Company. Failure of foreign corporation to file with the Commissioner of Corporations papers required by St. 1903, c. 437, §§ 58, 60. Pending.
- Titcomb, George H., *v.* Cape Cod Ship Canal Company, George A. Marden, Treasurer, *et al.* Petition for injunction to restrain the Treasurer of the Commonwealth from the payment of money under St. 1883, c. 259, and St. 1891, c. 397. Pending.
- Tres Hermanas Gold Mining Company. Failure of foreign corporation to file certificate of condition. Pending.
- Tufts, Nathan, *et al.* Claim for tide water displaced in the Mystic River. Pending.
- Twichell, Seth, *v.* Commonwealth *et als.* Action of contract. Pending.
- Union Paving Company. Failure of foreign corporation to file certificate of condition. Pending.
- Union Trust Company, Commonwealth of Massachusetts *v.* Petition for injunction and receiver. Charles F. Choate, Jr., and Samuel W. McCall appointed receivers. Pending.
- Union Waxed and Parchment Paper Company. Failure of foreign corporation to file certificate of condition. Pending.
- Union Wheelwright Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- United and Consolidated Cigar and Tobacco Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- United Brotherhood, Independent Order of Worcester, Incorporated, Attorney-General *ex rel. v.* Petition for injunction and the appointment of a receiver. Injunction issued and Simon G. Friedman appointed receiver. Pending.
- United Fountain Pen Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- United Industrials. Petition for failure to file return required by St. 1884, c. 330. Pending.
- United States *v.* Certain Land in Hull. Petition to condemn land in Hull. Pending.
- United States Peat-Coal Company. Failure of foreign corporation to file certificate of condition. Pending.

- Upton Machine Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- Vose, Julien W. Proceedings to abate filling of tide water without a license. Pending.
- W. S. Rendle Company. Failure of foreign corporation to file certificate of condition. Pending.
- Walton Self-Locking Block Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Disposed of.
- Ware, Worcester Lunatic Hospital *v.* Action of contract for the board of Hiram L. Wood, a patient in said hospital. Referred to the district attorney. Pending.
- Watertown, Town of. Claim for board of Thomas Ladd at Worcester Insane Hospital. Pending.
- Wendelschaefer, Felix, *v.* Joseph E. Shaw, Chief Massachusetts District Police. Bill in equity praying for relief from orders of building inspector of District Police. Pending.
- Wendmuth, E. R. Claim for board of Ethel W. Wendmuth at Hospital for Epileptics. Pending.
- Wells, Frank H. Claim for tide-water displacement. Pending.
- Westborough Insane Hospital *v.* New York, New Haven & Hartford Railroad Company. Claim for damages to property of hospital caused by collision at Talbot. Pending.
- Whall, H. B. Claim for board of Fannie L. B. Whall at Westborough Insane Hospital. Pending.
- Wilcox Manufacturing Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Pending.
- Willey Casualty Company, Attorney-General *ex rel.* Insurance Commissioner *v.* Petition to the Supreme Judicial Court for Suffolk County for an injunction and the appointment of a receiver. Injunction granted, and Archie N. Frost, Esq., of Lawrence, appointed receiver. Pending.
- Williams, Fred, *In re.* Petition for writ of *habeas corpus*. Petition dismissed.
- Winchester Printing Company. Fee for filing certificate of condition. Pending.
- Wollaston Land Association. Claim for tide-water displacement. Pending.
- Worcester & Connecticut Eastern Railway Company. Failure of foreign corporation to file first papers required by St. 1903, c. 437, §§ 58, 60. Papers filed.

- Worcester, City of. Claim for board of Charlotte D. Whitcomb at Worcester Insane Hospital. Pending.
- Worcester Conservatories. Failure of foreign corporation to file certificate of condition. Pending.
- Wyman, Ida Belle, Commonwealth *v.* Action to recover money paid by Preferred Mercantile Co. Pending.
- Young Men's Hebrew Benefit Association, Incorporated. Failure to file return with Insurance Commissioner. Disposed of.

COLLECTIONS.

Collections have been made by this department as follows:—

Corporation taxes for the year 1903, overdue and referred by the Treasurer of the Commonwealth to the Attorney- General for collection,		\$62,476 16
Interest,		945 60
Costs,		775 59
Miscellaneous,		112,096 59
Total,		\$176,293 94

The following table shows a detailed statement of the same:—

	Collected on Account of Corporation Tax for 1903.	Interest.	Totals.
A. F. Stowe Manufacturing Com- pany,	\$201 12	—	\$201 12
A. W. Dunton Printing Com- pany,	57 40	\$2 00	59 40
Allen-Higgins Company,	1,665 94	6 39	1,672 33
American Citizen Company, . . .	92 18	92	93 10
American Cultivator Publishing Company,	125 70	2 24	127 94
Andover Press, Limited,	71 23	36	71 59
Apsley Rubber Company,	6,214 60	88 04	6,302 64
Atlantic Telegraph Company of Massachusetts,	83 80	83	84 63
Austin & Winslow-Gallagher Express Company,	83 80	1 42	85 22
Ayer Tanning Company,	431 57	1 94	433 51
B. L. Bragg Company,	419 00	7 53	426 53
Bay State Card and Paper Com- pany,	804 48	6 68	811 16
Bay State Thread Works,	658 66	3 29	661 95
Boston & Haverhill Despatch Company,	83 80	1 40	85 20
Boston Cycle and Sundry Com- pany,	301 68	7 13	308 81
Boston Leather Binding Com- pany,	92 18	92	93 10
Boston Mirror Company,	167 60	1 84	169 44
Boston Steel and Iron Company, Boston Stitching and Plaiting Company,	595 81	5 56	601 37
Boston Traveller Company, . . .	50 28	85	51 13
Boston Traveller Company, . . .	299 66	5 28	304 94

	Collected on Account of Corporation Tax for 1903.	Interest.	Totals.
Bracketts Market Corporation,	\$20 95	—	\$20 95
Brennan Boot and Shoe Com- pany,	113 13	\$1 05	114 18
Brockway-Smith Corporation,	1,089 40	10 00	1,099 40
Builders Iron and Steel Com- pany,	83 80	83	84 63
C. W. Russell Company,	50 28	42	50 70
Caloric Transfer Company,	41 90	—	41 90
Cape Ann Machine Company,	142 46	—	142 46
Carlow & Putnam Company,	83 80	36	84 16
Charles E. Lauriat Company,	838 00	5 86	843 86
Chelsea Express Despatch Com- pany,	83 80	2 01	85 81
Codman & Hall Company,	670 40	41 34	711 74
Cold Spring Grocery Company,	11 73	—	11 73
Columbian National Life Insur- ance Company,	2,891 10	60 23	2,951 33
Concord & Boston Street Rail- way Company,	209 50	10 02	219 52
Concord, Maynard & Hudson Street Railway Company,	962 02	32 30	994 32
Craig & Craig Company,	100 56	1 81	102 37
Cunningham Lumber Company,	103 91	—	103 91
Dalton Ingersoll Company,	1,860 36	17 67	1,878 03
Dane & Washburn Company,	110 61	4 52	115 13
Davis & Buxton Stamping Com- pany,	48 60	1 01	49 61
Dillon Machine Company,	125 70	57	126 27
Doctor Ray Medicine Company,	16 76	40	17 16
E. H. Mahoney Chair Company,	113 13	57	113 70
E. H. Saxton Company,	83 80	76	84 56
E. P. Sanderson Company,	963 70	9 32	973 02
Educational Publishing Com- pany,	117 32	78	118 10
Empire Shoe Company,	402 24	22 12	424 36
Falk & Nathan Cigar Company,	83 80	—	83 80
Frank H. Hall Company,	46 92	50	47 42
Frederick J. Quimby Company,	787 72	7 88	795 60
Gardner Gas, Fuel and Light Company,	94 52	43	94 95
Garret-Ford Company,	189 38	—	189 38
George P. Bingham Company,	335 20	14 40	349 60
Gilchrist Company,	3,352 00	16 76	3,368 76
Gilman Snow Guard Company,	29 33	—	29 33
Graham Shoe Company,	435 76	7 40	443 16
Greenfield Recorder Company,	42 73	43	43 16
Gregory & Brown Company,	335 20	9 40	344 60
Grueby-Faience Company,	167 60	1 17	168 77
H. F. Ross Company,	259 78	1 60	261 38
H. M. Kinports Company,	53 63	1 12	54 75
Hampshire & Worcester Street Railway Company (1902),	1,034 95	219 75	1,254 70
Harrington Press,	87 15	55	87 70

	Collected on Account of Corporation Tax for 1903.	Interest.	Totals.
Hampshire & Worcester Street Railway Company,	\$952 86	-	\$952 86
Heath Telephone Company,	301 68	\$1 51	303 19
Henry N. Clark Company,	653 64	6 20	659 84
Hinckley Rendering Company,	110 61	66	111 27
Holly Whip Company,	17 46	18	17 64
Holyoke Thread Company,	100 56	7 11	107 67
Idea Press,	41 90	41	42 31
J. D. Jewett Company,	502 80	5 92	508 72
J. F. Kimball Company,	838 00	7 97	845 97
J. H. Williams Wall Paper Com- pany,	125 70	-	125 70
J. Maddock Company,	150 84	1 51	152 35
J. P. & W. H. Emond, Incorpo- rated,	251 40	12 06	263 46
J. W. Calnan Company,	41 90	41	42 31
John C. DeLaney Moulding Company,	217 88	2 17	220 05
Kennedy & Sullivan Manufac- turing Company,	701 90	3 05	704 95
Klein's Pharmacy,	419 00	3 91	422 91
Lawrence Equitable Co-oper- ative Society,	231 70	-	231 70
Lewis J. Bird Company,	83 80	42	84 22
Lynde Bros. Box Company,	239 66	2 39	242 05
Lynn Ice Company,	836 32	35 96	872 28
Macdonald Company,	83 80	-	83 80
Massachusetts Brick Company,	129 89	6 16	136 05
Mayo Contracting Company,	83 80	56	84 36
Medfield & Medway Street Rail- way Company,	377 10	15 45	392 55
Mellish & Byfield Company, In- corporated,	486 04	6 63	492 67
Metropolitan Bolt Company,	16 76	68	17 44
Middlesex Real Estate Associa- tion of Cambridge,	51 95	73	52 68
Mill River Electric Light Com- pany,	140 78	-	140 78
Morrison Grocery Company,	201 12	96	202 08
Mutual Mail Order Company,	33 52	57	34 09
National Finance Company,	83 80	1 75	85 55
New England Dredging Com- pany,	500 00	-	500 00
New England Publishing Com- pany,	419 00	3 84	422 84
New England Reed Company,	98 88	94	99 82
Newark Shoe Company,	83 80	54	84 34
Newburyport Herald Company,	21 78	26	22 04
Newton Graphic Publishing Company,	155 86	78	156 64
Norcross Brownstone Company,	764 25	3 82	768 07
Nute-Hallett Company, Incor- porated,	15 08	-	15 08

	Collected on Account of Corporation Tax for 1903.	Interest.	Totals.
Oxylectric Cured Fish Company,	\$125 70	-	\$125 70
Pemberton Law Stationery Com- pany,	83 80	-	83 80
People's Coal, Ice and Lumber Company,	335 20	\$3 35	338 55
People's Combination Clothing Company,	251 40	2 63	254 03
People's Ice Company of Worcester,	50 76	66	51 42
Perkins Wood Working Com- pany,	87 99	44	88 43
Press Clipping Bureau,	83 80	1 17	84 97
R. Guastavino Company,	192 74	1 77	194 51
Randall-Faichney Company,	402 24	16 48	418 72
Randolph Clothing Company,	117 32	-	117 32
Rawson & Morrison Manufac- turing Company,	3,641 94	16 39	3,658 33
Re-New Lamp Company,	444 14	2 66	446 80
Richard Briggs Company,	2,011 20	10 05	2,021 25
S. Armstrong Company,	184 36	92	185 28
Seal & Smith Company,	85 47	-	85 47
Shady Hill Nursery Company,	586 60	9 97	596 57
Silas Pierce & Company, Lim- ited,	2,099 19	15 05	2,114 24
South End Hardware Company,	67 04	67	67 71
Spatula Publishing Company,	92 18	75	92 93
Springfield Construction Com- pany,	149 16	-	149 16
Spy Company,	67 04	1 19	68 23
Standard Extract Company,	88 82	44	89 26
Suffolk Towboat Company,	241 34	-	241 34
T. F. Little Oil Company,	16 76	24	17 00
Tarbett-Phemister Company,	92 18	1 32	93 50
Taunton Evening News,	243 02	6 98	250 00
Telegram Publishing Company,	33 52	33	33 85
Train Smith Company,	838 00	3 63	841 63
United States Credit Company,	167 60	-	167 60
W. B. Clarke Company,	502 80	2 26	505 06
W. D. Parlin Hardware Com- pany,	419 00	4 00	423 00
Wagner Spring Bed Manufac- turing Company,	95 53	47	96 00
Waltham Watch Tool Company of Springfield,	33 52	31	33 83
Wason Mfg. Company,	1,330 74	5 99	1,336 73
Weymouth Seam-face Granite Company,	105 58	1 79	107 37
William Allen & Sons Com- pany,	362 01	5 94	367 95
William Bourne & Sons Piano Company,	167 60	3 27	170 87
William C. Norcross Company,	301 68	1 51	303 19
William H. Burns Company,	3,326 86	31 61	3,358 47

	Collected on Account of Corporation Tax for 1903.	Interest	Totals.
Wilson Jewelry Company,	\$402 24	\$3 21	\$405 45
Worcester & Holden Street Rail- way Company,	504 47	-	504 47
Worcester Automobile Com- pany,	33 52	-	33 52
Worcester Umbrella Company,	268 16	2 68	270 84
	\$62,476 16	\$945 60	\$63,421 76

MISCELLANEOUS COLLECTIONS.

Boston, City of, displacement of tide water,	\$1,000 00
Boston Terminal Company,	94,000 00
Cogswell, Jonathan, estate, interest on inheritance tax,	832 20
Columbia Electric Company, corporation tax, 1901,	121 35
Coolidge, L. E., estate, penalty for failure to file annual re- port on time,	5 00
Doughty, Charles, estate, penalty for failure to file annual report on time,	5 00
Framingham, Town of, claim for the board of patients at Westborough Insane Hospital,	103 43
Globe Worsted Mills, corporation tax, 1900,	342 16
H. H. Mayhew Company, fee for filing certificates of condi- tion for 1902 and 1903,	10 00
Harriman, John E., claim for the board of Sarah W. Harri- man at Westborough Insane Hospital,	20 72
Holly Whip Company, fee for filing certificates of condition for 1903 and 1904,	10 00
Holyoke Thread Company, fee for filing certificate of con- dition for 1903,	1 20
Newton, City of, costs recovered in suit of Newton Rubber Works v. Commonwealth,	19 79
Newton Rubber Works <i>et al.</i> , costs recovered in suit,	19 79
North Attleboro Gas Light Company, penalty for failure to file annual report on time,	5 00
Royal Exchange Assurance, penalties for violation of statutes,	15,000 00
South Deerfield Gas Company, penalty for failure to file annual report on time,	5 00
Worcester, City of, claim for the board of Antonio Kalat at Worcester Insane Hospital,	71 04
Worcester Textile Company, corporation tax, 1902, interest and costs,	534 91

 \$112,096 59

EXTRADITION AND INTERSTATE RENDITION.

The following applications for requisitions for fugitives from justice have been referred by His Excellency the Governor to this department during the year ending Dec. 31, 1904, for examination and report thereon:—

Date of Reference.	State or Country upon whose Executive Requisition was made.	Name of Fugitive.	Crime charged.	Venue of Prosecution.	Report.
1904. Jan. 1,	Michigan,	Joseph Rheinstrom, <i>alias</i> ,	Larceny,	Suffolk,	Lawful and in proper form.
Jan. 8,	Pennsylvania,	Arthur M. Farmer, <i>alias</i> ,	Polygamy,	Essex,	Lawful and in proper form.
Jan. 11,	New York,	Herbert L. Stewart,	Larceny,	Suffolk,	Lawful and in proper form.
Jan. 13,	Connecticut,	Robert S. Simpson, <i>alias</i> ,	Larceny in building,	Bristol,	Lawful and in proper form.
Jan. 14,	Pennsylvania,	Nathaniel Depsohn,	Forgery,	Essex,	Lawful and in proper form.
Jan. 16,	Pennsylvania,	Luigi Principe, Sr.,	Robbery,	Suffolk,	Lawful and in proper form.
Jan. 20,	New York,	L. O. Hoffman, <i>alias</i> ,	Escaped prisoner,	Hampden,	Lawful and in proper form.
Jan. 27,	New York,	Martin Dailey, <i>alias</i> ,	Breaking and entering,	Hampden,	Lawful and in proper form.
Jan. 27,	New York,	John Brodley,	Robbery,	Suffolk,	Lawful and in proper form.
Feb. 8,	New York,	James Carew,	Larceny,	Suffolk,	Lawful and in proper form.
Feb. 10,	New Jersey,	Lena Grossenberger, <i>alias</i> ,	Grand larceny,	Middlesex,	Lawful and in proper form.
Feb. 18,	Illinois,	Albert Richardson, <i>alias</i> ,	Breaking and entering,	Middlesex,	Lawful and in proper form.
March 23,	Connecticut,	Thomas C. Borse, <i>alias</i> ,	Forgery,	Suffolk,	Lawful and in proper form.
March 29,	New York,	William Hall, <i>alias</i> ,	Larceny,	Essex,	Lawful and in proper form.
April 6,	Maryland,	Edward J. Cannon,	Larceny,	Suffolk,	Lawful and in proper form.

May 11,	Oregon,	Joseph M. Horton,	Embezzlement,	Plymouth,	Lawful and in proper form.
May 18,	California,	Everett Abbott,	Larceny,	Suffolk,	Lawful and in proper form.
June 27,	New Jersey,	Edward Waters, <i>alias</i> ,	Escaped from State Prison,	Suffolk,	Lawful and in proper form.
July 6,	New York,	William Moffatt, <i>alias</i> ,	Larceny,	Suffolk,	Lawful and in proper form.
July 11,	New York,	Max Rodman,	Larceny,	Suffolk,	Lawful and in proper form.
July 30,	Illinois,	Evelyn Rogers, <i>alias</i> ,	Larceny,	Bristol,	Lawful and in proper form.
Aug. 18,	Wisconsin,	Walter A. Murray,	Larceny,	Suffolk,	Lawful and in proper form.
Aug. 20,	New York,	Edward J. Ader,	Perjury,	Suffolk,	Lawful and in proper form.
Aug. 25,	Connecticut,	George Brown, <i>alias</i> ,	Stealing,	Hampden,	Lawful and in proper form.
Sept. 9,	Ohio,	Charles Pride,	Larceny,	Suffolk,	Lawful and in proper form.
Sept. 13,	New York,	Bertha E. M. Natino,	Kidnapping,	Suffolk,	Lawful and in proper form.
Sept. 15,	New York,	John J. O'Connor,	Attempt to commit larceny from person,	Suffolk,	Lawful and in proper form.
Sept. 22,	Pennsylvania,	Robert Williams, <i>alias</i> ,	Breaking and entering,	Bristol,	Lawful and in proper form.
Sept. 26,	New York,	Philip Rollins,	Larceny,	Suffolk,	Lawful and in proper form.
Sept. 27,	Kentucky,	John Hayes,	Larceny,	Suffolk,	Lawful and in proper form.
Sept. 28,	California,	John P. Blaney,	Stealing,	Hampden,	Lawful and in proper form.
Oct. 7,	New York,	E. W. Newell, <i>alias</i> ,	Stealing,	Hampden,	Lawful and in proper form.
Oct. 10,	New York,	Thomas Dugan, <i>alias</i> ,	Larceny,	Suffolk,	Lawful and in proper form.
Oct. 14,	New York,	Jacob Goldberg,	Attempt to break and enter,	Suffolk,	Lawful and in proper form.
Nov. 18,	New York,	Isadore J. Colty,	Larceny,	Essex,	Lawful and in proper form.
Nov. 23,	New York,	William F. Duprey and George Smith,	Larceny,	Hampden,	Lawful and in proper form.
Nov. 23,	New York,	Julia Edmondson, <i>alias</i> ,	Larceny,	Middlesex,	Lawful and in proper form.
Dec. 10,	Iowa,	Ethel Hammady,	Larceny,	Worcester,	Lawful and in proper form.

The following requisitions upon His Excellency the Governor for the surrender of fugitives from the justice of other States have been referred by him to this department during the year ending Dec. 31, 1903, for examination and report thereon:—

Date of Reference.	State making the Requisition.	Name of Fugitive.	Crime charged.	Report.
1904.				
Jan. 9,	New Hampshire,	David L. Belanger,	Larceny,	Lawful and in proper form.
Feb. 18,	Minnesota,	Fred Williams,	Grand larceny,	Lawful and in proper form.
Feb. 23,	Maryland,	Patrick J. Clifford,	Bigamy,	Lawful and in proper form.
Feb. 24,	Delaware,	George F. Kingman,	Embezzlement,	Lawful and in proper form.
March 17,	Connecticut,	Ephraim Dorons,	Seduction,	Lawful and in proper form.
April 25,	Maryland,	Sidney Stodden,	Forgery,	Lawful and in proper form.
May 20,	New York,	Harry Gorman,	Grand larceny, second degree,	Lawful and in proper form.
July 27,	New Hampshire,	Albert Russell,	Larceny,	Lawful and in proper form.
Aug. 1,	Rhode Island,	Timothy Luce, <i>alias</i> ,	Crucify to animals,	Lawful and in proper form.
Aug. 12,	New York,	William Hayward,	Assault in first degree,	Lawful and in proper form.
Aug. 16,	New York,	John McGunniss,	Grand larceny,	Lawful and in proper form.
Aug. 20,	Illinois,	May Campbell,	Larceny,	Lawful and in proper form.
Oct. 25,	New Hampshire,	J. Pinks, <i>alias</i> ,	False pretences,	Lawful and in proper form.
Nov. 7,	Vermont,	Harold Holbrook,	Burglary,	Lawful and in proper form.
Dec. 7,	Ohio,	J. G. Alvord,	Embezzlement,	Lawful and in proper form.
Dec. 20,	New Hampshire,	James Dugan,	Larceny,	Lawful and in proper form.

RULES OF PRACTICE

IN INTERSTATE RENDITION.

Every application to the Governor for a requisition upon the executive authority of any other State or Territory, for the delivery up and return of any offender who has fled from the justice of this Commonwealth, must be made by the district or prosecuting attorney for the county or district in which the offence was committed, and must be in duplicate original papers, or certified copies thereof.

The following must appear by the certificate of the district or prosecuting attorney: —

(a) The full name of the person for whom extradition is asked, together with the name of the agent proposed, to be properly spelled.

(b) That, in his opinion, the ends of public justice require that the alleged criminal be brought to this Commonwealth for trial, at the public expense.

(c) That he believes he has sufficient evidence to secure the conviction of the fugitive.

(d) That the person named as agent is a proper person, and that he has no private interest in the arrest of the fugitive.

(e) If there has been any former application for a requisition for the same person, growing out of the same transaction, it must be so stated, with an explanation of the reasons for a second request, together with the date of such application, as near as may be.

(f) If the fugitive is known to be under either civil or criminal arrest in the State or Territory to which he is alleged to have fled, the fact of such arrest and the nature of the proceedings on which it is based must be stated.

(g) That the application is not made for the purpose of enforcing the collection of a debt, or for any private purpose whatever; and that, if the requisition applied for be granted, the criminal proceedings shall not be used for any of said objects.

(h) The nature of the crime charged, with a reference, when practicable, to the particular statute defining and punishing the same.

(i) If the offence charged is not of recent occurrence, a satisfactory reason must be given for the delay in making the application.

1. In all cases of fraud, false pretences, embezzlement or forgery, when made a crime by the common law, or any penal code or statute, the affidavit of the principal complaining witness or informant, that the application is made in good faith, for the sole purpose of punishing the accused, and that he does not desire or expect to use the prosecution for the purpose of collecting a debt, or for any private purpose, and will not directly or indirectly use the same for any of said purposes, shall be required, or a sufficient reason given for the absence of such affidavit.

2. Proof by affidavit of facts and circumstances satisfying the Executive that the alleged criminal has fled from the justice of the State, and is in the State on whose Executive the demand is requested to be made, must be given. The fact that the alleged criminal was in the State where the alleged crime was committed at the time of the commission thereof, and is found in the State upon which the requisition was made, shall be sufficient evidence, in the absence of other proof, that he is a fugitive from justice.

3. If an indictment has been found, certified copies, in duplicate, must accompany the application.

4. If an indictment has not been found by a grand jury, the facts and circumstances showing the commission of the crime charged, and that the accused perpetrated the same, must be shown by affidavits taken before a magistrate. (A notary public is not a magistrate within the meaning of the statutes.) It must also be shown that a complaint has been made, copies of which must accompany the requisition, such complaint to be accompanied by affidavits to the facts constituting the offence charged by persons having actual knowledge thereof, and that a warrant has been issued, and duplicate certified copies of the same, together with the returns thereto, if any, must be furnished upon an application.

5. The official character of the officer taking the affidavits or depositions, and of the officer who issued the warrant, must be duly certified.

6. Upon the renewal of an application, — for example, on the ground that the fugitive has fled to another State, not having been found in the State on which the first was granted, — new or certified copies of papers, in conformity with the above rules, must be furnished.

7. In the case of any person who has been convicted of any crime, and escapes after conviction, or while serving his sentence,

the application may be made by the jailer, sheriff, or other officer having him in custody, and shall be accompanied by certified copies of the indictment or information, record of conviction and sentence upon which the person is held, with the affidavit of such person having him in custody, showing such escape, with the circumstances attending the same.

8. No requisition will be made for the extradition of any fugitive except in compliance with these rules.



