

Commonwealth of Massachusetts
ATTORNEY-GENERAL'S REPORT

1913

The Commonwealth of Massachusetts

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE

YEAR ENDING JANUARY 21, 1914.



BOSTON:
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1914.

The Commonwealth of Massachusetts.

DEPARTMENT OF THE ATTORNEY-GENERAL,
BOSTON, Jan. 21, 1911.

To the Honorable Senate and House of Representatives.

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

Very respectfully,

JAMES M. SWIFT,
Attorney-General.

The Commonwealth of Massachusetts.

DEPARTMENT OF THE ATTORNEY-GENERAL,
State House.

Attorney-General.

JAMES M. SWIFT.

Assistants.

FREDERIC B. GREENHALGE.

ANDREW MARSHALL.

HENRY M. HUTCHINGS.

WALTER A. POWERS.

THOMAS O. JENKINS.

Engineer of Grade Crossings.

HENRY W. HAYES.

Chief Clerk.

LOUIS H. FREESE.

STATEMENT OF APPROPRIATION AND EXPENDITURES.

Appropriation for 1913,	\$50,000 00
<i>Expenditures.</i>	
For law library,	\$657 44
For salaries of assistants,	17,861 65
For expert services,	154 00
For clerks,	3,807 50
For office stenographers,	2,900 00
Telephone operator,	480 00
For messenger,	1,200 00
For expenses in the abolition of grade crossings: —	
Salary of engineer,	\$3,167 43
Other expenses incidental thereto,	659 26
	3,826 69
For advertising unclaimed deposits,	6,190 90
For office expenses,	2,823 10
For court expenses,	9,959 06
	\$49,860 34
Costs collected,	2,476 17
	\$47,384 17

The Commonwealth of Massachusetts

DEPARTMENT OF THE ATTORNEY-GENERAL,
BOSTON, Jan. 21, 1914.

To the Honorable Senate and House of Representatives.

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 this department during the year, to the number of 5,735, are tabulated below:—

Corporate franchise tax cases,	638
Extradition and interstate rendition,	96
Grade crossings, petitions for abolition of,	99
Indictments for murder,	28
Inventories and appraisals,	246
Land Court petitions,	14
Land-damage cases arising from the taking of land by the Harbor and Land Commission,	4
Land-damage cases arising from the taking of land by the Charles River Basin Commission,	23
Land-damage cases arising from the taking of land by the Massachusetts Highway Commission,	17
Land-damage cases arising from the taking of land by the Metropolitan Park Commission,	1
Land-damage cases arising from the taking of land by the Metropolitan Water and Sewerage Board,	14
Land-damage cases arising from the taking of land by the State Board of Insanity,	7
Land-damage cases arising from the taking of land by the Mt. Everett Reservation Commission,	1
Land-damage cases arising from the taking of land by the Armory Commissioners,	2
Miscellaneous cases arising from the work of the above-named commissions,	32
Miscellaneous cases,	582
Petitions for instructions under inheritance tax laws,	47
Public charitable trusts,	112
Settlement cases for support of persons in State Hospitals,	27
All other cases not enumerated above, which include suits to require the filing of returns by corporations and individuals and the collection of money due the Commonwealth,	3,745

CAPITAL CASES.

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

DOMENICO BENINATO, indicted in Middlesex County, September, 1912, for the murder of Giovannina Natoli, at Waltham, on Nov. 21, 1911. He was arraigned Nov. 14, 1912, and pleaded not guilty. John J. Mitchell, Esq., was assigned by the court as counsel for the defendant. The defendant later retracted his former plea, and pleaded guilty to murder in the second degree. This plea was accepted by the Commonwealth, and the defendant was sentenced to State Prison for life. The case was in charge of District Attorney John J. Higgins.

STEFAN BORASKY and ANTONE KOLEK, indicted in Hampden County, December, 1911, for the murder of Rose Aman-sky, at Granville, on Sept. 27, 1911. They were arraigned May 20, 1912, and pleaded not guilty. Joseph F. Carmody, Esq., Frederick B. Spellman, Esq., and James H. Reilly, Esq., were assigned by the court as counsel for the defendants. In June, 1912, the defendants were tried by a jury before King, J. The result was a verdict of guilty of murder in the first degree. The motion of the defendants for a new trial was denied. Aug. 1, 1912, suggestion of the death of the defendant Antone Kolek was filed. The exceptions of the defendant Stefan Borasky were overruled by the Supreme Judicial Court. On April 7, 1913, the defendant was sentenced to death by electrocution during the week beginning June 22, 1913, which sentence was executed June 24, 1913. The case was in charge of District Attorney Christopher T. Callahan.

JESSIE M. CHAPMAN, indicted in Essex County, April, 1912, for the murder of Eva F. Ingalls, at Lynn, on March 6, 1912. She was arraigned May 7, 1912, and pleaded not guilty. W. Scott Peters, Esq., appeared as counsel for the defendant. May 16, 1913, the defendant retracted her

former plea, and pleaded guilty to murder in the second degree. This plea was accepted by the Commonwealth, and the defendant was sentenced to the Reformatory for Women. The case was in charge of District Attorney Henry C. Attwill.

LUIGI MELINAZZO, indicted in Middlesex County, September, 1912, for the murder of Antonio Lando, at Waltham, on Aug. 12, 1912. He was arraigned Sept. 12, 1912, and pleaded not guilty. Frank M. Zottoli, Esq., was assigned by the court as counsel for the defendant. The defendant later retracted his former plea, and pleaded guilty to manslaughter. This plea was accepted by the Commonwealth, and the defendant was sentenced to State Prison for a term not exceeding nine years nor less than six years. The case was in charge of District Attorney John J. Higgins.

NICHOLAS TSOUKLARIIS, indicted in Essex County, July, 1912, for the murder of George Kashouris, at Peabody, on May 3, 1912. He was arraigned July 12, 1912, and pleaded not guilty. William H. Fay, Esq., was assigned by the court as counsel for the defendant. In July, 1913, the defendant was tried by a jury before Irwin, J. The result was a verdict of not guilty by reason of insanity, and the defendant was thereupon committed to the Bridgewater State Hospital. The case was in charge of District Attorney Henry C. Attwill.

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

MARSOOB CASPARIAN, indicted in Essex County, January, 1913, for the murder of Takoohie Casparian and Anna Bedrosian, at Lynn, on Oct. 19, 1912. He was arraigned Feb. 28, 1913, and pleaded not guilty. Hon. W. Scott Peters and Jacob K. Tertzag, Esq., were assigned by the court as counsel for the defendant. On May 26, 1913, the defendant retracted his former plea, and pleaded guilty to murder in the second degree. This plea was accepted by the Common-

wealth, and the defendant was sentenced to State Prison for life. The case was in charge of District Attorney Henry C. Attwill.

MICHAEL J. COLLINS, indicted in Middlesex County, January, 1913, for the murder of Joseph W. McLaughlin, at Somerville, on Dec. 25, 1912. He was arraigned Jan. 23, 1913, and pleaded not guilty. J. H. O'Neil, Esq., was assigned by the court as counsel for the defendant. In March, 1913, the defendant was tried by a jury before Chase, J. The result was a verdict of not guilty by reason of insanity. The defendant was thereupon committed to the Bridgewater State Hospital. The case was in charge of District Attorney John J. Higgins.

RICHARD J. DELANEY, indicted in Norfolk County, September, 1913, for the murder of John Delaney, at Dedham, on Aug. 24, 1913. He was arraigned Dec. 15, 1913, and pleaded guilty to manslaughter. This plea was accepted by the Commonwealth, and the defendant was sentenced to State Prison for a term not exceeding eight years nor less than six years. The case was in charge of District Attorney Albert F. Barker.

JENNIE M. EATON, indicted in Plymouth County, March, 1913, for the murder of Joseph G. Eaton, at Norwell, on March 8, 1913. She was arraigned March 28, 1913, and pleaded not guilty. William A. Morse, Esq., and Francis J. Geogan, Esq., were assigned by the court as counsel for the defendant. In October, 1913, the defendant was tried by a jury before Aiken, C.J. The result was a verdict of not guilty. The case was in charge of District Attorney Albert F. Barker.

JAMES B. JENNINGS, indicted in Suffolk County, January, 1913, for the murder of William H. MacPherson, at Boston, on Jan. 1, 1913. He was arraigned Jan. 16, 1913, and pleaded not guilty. Melvin B. Breath, Esq., was assigned by the court as counsel for the defendant. In March, 1913, the defendant was tried by a jury before Brown, J. The result was a verdict of guilty of murder in the second

degree, and the defendant was sentenced to State Prison for life. The case was in charge of District Attorney Joseph C. Pelletier.

COLOGERO MARCCHESE, indicted in Suffolk County, July, 1913, for the murder of Luigi Carrabello, at Boston, on July 1, 1913. He was arraigned July 19, 1913, and pleaded not guilty. J. F. Zottoli, Esq., R. W. Nason, Esq., and F. R. Mullin, Esq., were assigned by the court as counsel for the defendant. In November, 1913, the defendant was tried by a jury before Brown, J. The result was a verdict of guilty of murder in the second degree, and the defendant was sentenced to State Prison for life. The case was in charge of District Attorney Joseph C. Pelletier.

WILLIAM A. McDONALD, indicted in Middlesex County, June, 1913, for the murder of Margaret E. McDonald, at Arlington, on March 23, 1913. He was arraigned June 18, 1913, and pleaded not guilty. R. W. Gloag, Esq., was assigned by the court as counsel for the defendant. The defendant later retracted his former plea, and pleaded guilty to murder in the second degree. This plea was accepted by the Commonwealth, and the defendant was sentenced to State Prison for life. The case was in charge of District Attorney John J. Higgins.

VINCENZO RISTAGNO, TOMMASO FITTANTE, LUIGI LIGARO, GABRIELE LEPERE and FRANCESCO FALBO, indicted in Middlesex County, January, 1913, for the murder of Francesco Cirillo, at Watertown, on Nov. 17, 1912. They were severally arraigned Jan. 24, 1913, and pleaded not guilty. J. H. Vahey, Esq., M. M. Lynch, Esq., R. S. Hoar, Esq., J. H. Hurley, Esq., and J. J. Kerwin, Esq., were assigned by the court as counsel for the defendants. Later, the defendants severally retracted their former pleas and pleaded guilty to manslaughter. These pleas were accepted by the Commonwealth. The defendants Vincenzo Ristagno, Tommaso Fittante and Gabriele Lepere were sentenced to State Prison for a term not exceeding ten years nor less than six years. The defendants Luigi Ligaro and Francesco

Falbo were sentenced to the House of Correction for the term of one year. The case was in charge of District Attorney John J. Higgins.

ROSE SPOGARD, indicted in Essex County, April, 1913, for the murder of Sven Spogard, at Lynn, on Feb. 24, 1913. She was arraigned April 30, 1913, and pleaded not guilty. James H. Sisk, Esq., was assigned by the court as counsel for the defendant. On May 26, 1913, the defendant retracted her former plea, and pleaded guilty to murder in the second degree. This plea was accepted by the Commonwealth, and the defendant was sentenced to the Reformatory for Women. The case was in charge of District Attorney Henry C. Attwill.

JOSEPH WARNIS, indicted in Essex County, January, 1913, for the murder of Veronica Briten, at Lawrence, on Nov. 29, 1912. He was arraigned Feb. 28, 1913, and pleaded not guilty. Sept. 22, 1913, the defendant was adjudged insane, and was committed to the Danvers State Hospital. The case was in charge of District Attorney Henry C. Attwill.

The following indictments for murder are now pending:—

THERESA BERNARD, indicted in Suffolk County, November, 1913, for the murder of John R. Bernard, on Oct. 6, 1913. She was arraigned Nov. 13, 1913, and pleaded not guilty. Richard S. Teeling, Esq., 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 Joseph C. Pelletier.

JOHN F. BRANAGAN, indicted in Middlesex County, June, 1913, for the murder of Bridget Hall, at Natick, on May 24, 1913. He was arraigned June 19, 1913, and pleaded not guilty. Edward L. McManus, Esq., 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 William J. Corcoran.

JOHN BUFULINI, indicted in Essex County, July, 1913, for the murder of Emilio Marchocci, at Swampscott, on July 14, 1913. He was arraigned July 16, 1913, and pleaded not guilty. James H. Sisk, Esq., and William H. Sisk, Esq., were assigned by the court as counsel. No further action has been taken in this case. The case is in charge of District Attorney Henry C. Attwill.

ANNA CATANIA, indicted in Suffolk County, October, 1913, for the murder of Agrippino Capra, at Boston, on Oct. 3, 1913. She was arraigned Oct. 15, 1913, and pleaded not guilty. Maurice Caro 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 Joseph C. Pelletier.

DOMENICO D'ALESSANDRO, indicted in Suffolk County, September, 1913, for the murder of Antonio Burgio, at Boston, on July 28, 1913. He was arraigned Sept. 9, 1913, and pleaded not guilty. Thomas J. Grady, Esq., 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 Joseph C. Pelletier.

SUPRIANO DA SILVA, indicted in Plymouth County, October, 1913, for the murder of Joquin Esteves, at Plymouth, on Aug. 1, 1913. The defendant has not yet been arraigned. John P. Vahey, Esq., 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 Albert F. Barker.

WILLIAM A. DORR, indicted in Essex County, April, 1912, for the murder of George E. Marsh, at Lynn, on April 11, 1912. He was arraigned July 12, 1912, and pleaded not guilty. C. Neal Barney, Esq., appeared as counsel for the defendant. In February, 1913, the defendant was tried by a jury before Quinn, J. The result was a verdict of guilty of murder in the first degree. The defendant's exceptions

have been overruled. The case is in charge of District Attorney Henry C. Attwill.

SAM KALESTIAN, indicted in Middlesex County, September, 1913, for the murder of Andrew Saul, at Watertown, on July 12, 1913. The defendant has not yet been arraigned. The case is in charge of District Attorney William J. Corcoran.

WILLIAM KAMINSKI, indicted in Middlesex County, November, 1913, for the murder of John Scannell, at Cambridge, on Sept. 29, 1913. The defendant has not yet been arraigned. The case is in charge of District Attorney William J. Corcoran.

SAMUEL POWERS, indicted in Hampden County, December, 1913, for the murder of Minnie Powers, at Springfield, on May 4, 1913. He was arraigned Dec. 22, 1913, and pleaded not guilty. Edward A. McClintock, Esq., 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 Christopher T. Callahan.

JAMES R. SUTHERLAND, indicted in Plymouth County, June, 1913, for the murder of Winifred Sutherland, at Whitman, on April 28, 1913. He was arraigned June 4, 1913, and pleaded not guilty. William F. Kane, Esq., and James T. Kirby, Esq., were 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 Albert F. Barker.

FINTON THOMPSON, indicted in Bristol County, June, 1913, for the murder of Maria Colbaert. No action has been taken in this case. The case is in charge of District Attorney Joseph T. Kenney.

RALPH V. VILLIERS, indicted in Bristol County, June, 1913, for the murder of Charles S. Mawhinney. The de-

fendant has been committed to the Bridgewater State Hospital pending determination of his sanity. The case is in charge of District Attorney Joseph T. Kenney.

GRADE CROSSING.

In his report for the year 1907 Attorney-General Malone recommended that a competent engineer be employed, under the direction of the Attorney-General, to make a thorough examination of all plans submitted to special commissioners appointed in proceedings for the abolition of grade crossings and of the actual work of construction, together with all accounts of expenditures presented to auditors for allowance in connection therewith. As a result of this recommendation, St. 1908, c. 372, was enacted, authorizing the Attorney-General to employ a civil engineer, at an expense not exceeding \$5,000 in any one year, who should, under his direction, examine the plans submitted to commissioners for the abolition of grade crossings, the actual work of construction, and the accounts of expenditures submitted to auditors therein, and perform such other duties in connection with proceedings for the abolition of grade crossings as might be assigned to him. On June 4, 1908, Mr. Henry W. Hayes of Arlington was appointed to the position of engineer of grade crossings, which he retained until January 1 of the present year, when he became the engineer of the Public Service Commission.

The importance of the work performed by the engineer of grade crossings is shown by the following tabulation of the results of only one phase of it, to wit, examining the reports submitted to auditors during the years 1909, 1910, 1911 and 1912: —

STATEMENT OF THE EXPENDITURES FOR THE ELIMINATION OF GRADE CROSSINGS, WHICH HAVE BEEN EXAMINED, FROM JAN. 1, 1909, TO DATE, TO ACCOMPANY THE REPORT TO THE ATTORNEY-GENERAL OF JAN. 1, 1914.

Detail of Objections pending.

Statement Number.	CROSSINGS.	Expended by —	Audit Number.	Amount.	Totals.
	<i>1909 Accounts.</i>				
-	Worcester,	City,	7	-	\$292 81
	<i>1910 Accounts.</i>				
6	East Boston, Boston & Albany crossings.	City,	12	\$1,319 58	
16	Worcester,	City,	15	123 59	
55	Worcester,	New Hampshire,	30	2,600 00	4,043 17
	<i>1911 Accounts.</i>				
57	Worcester,	Boston & Albany,	31	\$114 25	
58	Worcester,			152 93	
91	Boston, Freeport Street <i>et al.</i> ,	New Hampshire,	10	88,000 00	88,267 18
	<i>1912 Accounts.</i>				
102	Boston, Freeport Street <i>et al.</i> ,	New Hampshire,	12	\$9,208 62	
107	Boston, Freeport Street <i>et al.</i> ,	New Hampshire,	14	4,969 50	
108	Worcester,	City,	45	165 19	
112	Lynn,	Boston & Maine,	2	27,310 11	
118	Boston, Freeport Street <i>et al.</i> ,	New Hampshire,	15	10,105 47	
120	Ware, Gilbertville Road,	Boston & Albany,	3	6,055 76	
128		Boston & Maine,			
129	Worcester,	Boston & Albany,	51	960 32	
130					
132	Worcester,	City,	53	63 50	
134	Worcester,	Boston & Albany,	54	211 04	
138	Boston, Freeport Street <i>et al.</i> ,	New Hampshire,	17	5,549 82	
146	Worcester,	Boston & Albany,	57	453 89	65,053 22
	<i>1913 Accounts.</i>				
148	Worcester,	City,	58	888 45	
150	Worcester,	Boston & Albany,	59	1,128 71	
154	Lynn,	Boston & Maine,	3	23,292 53	
159	Worcester,	Boston & Albany,	60	1,085 38	
162	Clinton,	New Hampshire,	1	3,521 75	
167	Worcester,	Boston & Albany,	63	5,172 24	
177	Clinton,	Boston & Maine,	2	6,178 84	

STATEMENT OF THE EXPENDITURES FOR THE ELIMINATION OF GRADE
CROSSINGS, ETC. — *Concluded.*

Detail of Objections pending — Concluded.

Statement Number.	CROSSINGS.	Expended by —	Audit Number.	Amount.	Totals.
183	Taunton,	New Hampshire, .	1	\$502 37	
185	Somerville, Somerville Avenue,	Boston & Maine, .	9	342 67	
186	Somerville, Webster Avenue, .	Boston & Maine, .	6	1,364 63	
187	Somerville, Medford and Dane streets.	Boston & Maine, .		17,275 81	\$59,953 38
	Total,			\$217,609 76

Summary by crossings: —

Boston, Freeport Street <i>et al.</i> ,	\$117,833 41
East Boston, Boston & Albany crossings,	1,319 58
Clinton,	9,700 59
Lynn,	50,602 64
Somerville, Somerville Avenue,	342 67
Somerville, Webster Avenue, Medford and Dane streets,	18,640 44
Taunton,	502 37
Ware,	6,055 76
Worcester,	12,612 30
	<u>\$217,609 76</u>

Amount expended.

YEAR.	Number of State-ments.	Total of State-ments.	Total of Amounts objected to.	1909.		1910.		1911.		1912.		1913.	
				Dis-allowed.	Pending Jan. 1, 1910.	Dis-allowed.	Pending Jan. 1, 1911.	Dis-allowed.	Pending Jan. 1, 1912.	Dis-allowed.	Pending Jan. 1, 1913.	Dis-allowed.	Pending Jan. 1, 1914.
1909, . . .	50	\$2,324,575 12	\$56,713 03	\$21,208 09	\$35,504 97	\$16,407 70	\$2,339 62	\$731 39	\$292 81	-	\$292 81	-	\$292 81
1910, . . .	56	2,193,112 50	86,906 61	-	-	49,038 25	12,477 21	2,528 37	4,412 52	\$309 75	4,043 17	-	4,043 17
1911, . . .	48	2,182,670 51	168,682 89	-	-	-	-	10,798 84	157,362 69	5,629 68	88,267 18	-	88,267 18
1912, . . .	43	2,454,485 25	86,230 78	-	-	-	-	-	-	5,105 43	73,972 53	-	65,053 22
1913, . . .	41	1,440,708 73	107,457 93	-	-	-	-	-	-	-	-	-	4,519 55
Totals, . . .	238	\$10,595,552 11	\$505,991 27	\$21,208 09	\$35,504 97	\$65,445 95	\$14,816 83	\$14,058 60	\$162,068 02	\$11,044 86	\$166,575 69	\$8,169 67	\$217,609 76

By the end of 1910, however, this work had been so well systematized that the Attorney-General suggested that it did not require all of the time or attention of the engineer of grade crossings for the Commonwealth, and that his services be made available for use by the Board of Railroad Commissioners. The Legislature adopted this suggestion, and provided in St. 1911, c. 214, that the Board of Railroad Commissioners should be authorized to employ the engineer of grade crossings upon engineering work to such extent as the Board might deem expedient, provided that such employment should not interfere with the duties required of him in connection with grade crossings. Since that time the engineer of grade crossings, in addition to his grade crossing work, has devoted a considerable portion of his time to the work of the Board of Railroad Commissioners.

After the enactment of St. 1913, c. 784, which changed the name of the Board of Railroad Commissioners to the Public Service Commission, and extended their powers, Mr. Hayes was appointed engineer of such commission, his appointment taking effect on January 1, and since that appointment, in addition to his duties as engineer of the commission, he has, without inconvenience, continued his grade crossing work. I see no reason why such work should not be transferred by statute to the engineer of the Public Service Commission, to be performed by him or under his direction. There is not now, and in my opinion will not be in the future, sufficient work in connection with grade crossings alone to occupy the time of a competent engineer, and I therefore suggest that the office of engineer of grade crossings be abolished, and that St. 1908, c. 372, be repealed.

During the year 1913 the following work has been done:—

Thirty-four hearings before commissioners and auditors have been attended.

Construction has been in progress at Clinton, Lynn, Worcester, East Boston, Georgetown, Somerville and Westfield, and forty-four visits of inspection have been made.

Statements of expenditures, numbering forty-one, amounting to \$1,440,708.73, have been examined. Objection to

items amounting to \$107,457.93 has been made, \$4,519.55 of which has been disallowed and decisions as to \$59,953.38 are pending. Of objections made in previous years \$3,650.12 has been disallowed.

Plans and draft reports in two cases have been prepared for special commissioners.

Under authority of chapter 214 of the Acts of 1911 the engineer has been employed a total of 42.75 days for the Railroad and Public Service Commission.

ENLARGED POWERS OF THE ATTORNEY-GENERAL.

Pursuant to the recommendation made by me in my last annual report, to the effect that if it was desired by the Legislature the Attorney-General should engage in matters involving so-called social welfare investigations and prosecutions, the law should be amended, and that enlarged authority and powers in this regard be established, the Legislature enacted chapter 709 of the Acts of 1913, disregarding, however, my recommendation that "a largely increased appropriation of money be assigned to" the Attorney-General. The legislation enacted provided in section 2 of said act as follows:—

To carry out the provisions of this act the attorney-general, with the consent of the governor and council, may expend a sum not exceeding five thousand dollars from the treasury of the commonwealth.

If it was intended that this should be simply an appropriation for the first year, the language of the section is not appropriate for this purpose. As it stands, the Attorney-General is expressly limited to the expenditure of a sum not exceeding \$5,000 to carry out the provisions of the act, while the enlarged powers and duties provided in section 1 thereof continue in permanent force. The first matter to come to the attention of this department under said act was referred by an order of the House of Representatives, requiring an investigation of the ice situation, in the prosecution of which the amount necessarily incurred exhausted the sum so appropriated. The language of said section 2 does not even permit the Attorney-General, when acting under the provisions of

this chapter, to expend money from his general appropriation in case it should be otherwise available. I therefore recommend that section 2 be repealed, and that a new section be substituted therefor, providing that the Attorney-General, to carry out the provisions of this act, may expend such sum as shall be authorized from time to time by the Governor and Council, in addition to any expenditure that the Attorney-General may see fit to make from his general appropriation.

SERVICE ON COMMISSIONS.

I respectfully direct the attention of the Legislature to the fact that the duties and responsibilities of the Attorney-General are primarily confined to matters of a strictly legal nature, and that to properly carry out these specific duties all the time and attention of the Attorney-General are required. It therefore interferes materially with the performance of such duties to assign to the Attorney-General work of an entirely different nature and character, such as has been put upon your law officer by recent Legislatures. During my term of service I have been required to act as chairman of two commissions appointed by the Legislature, — one to investigate voluntary associations, and one to consider the laws with reference to stock and bonds in the Commonwealth and the advisability of enacting a so-called “blue sky” law. I have also been required to serve as a member of the Commission on Water Conservation during the past year. Inasmuch as any commission delegated by the Legislature to investigate these various subjects has the right to the assistance of the Attorney-General and his department in any matters involving legal considerations in connection with their deliberations, I respectfully suggest that the Attorney-General should not be required to serve as a member of such commissions, to the detriment of the legal work of his department.

ICE INVESTIGATION.

An order of the House of Representatives, dated June 4, 1913, provided as follows: —

Ordered, That the Attorney-General be requested to investigate, under the authority given him by chapter 709 of the Acts of 1913,

the supply and price at retail of ice in this Commonwealth, to ascertain, as far as possible, what quantity of ice is now stored for use in this Commonwealth, what quantity of ice owned by ice companies in this Commonwealth is stored in other States, and what justification, if any, there is for an increase in the price of ice at the present time; or what justification, if any, there may be for an increase in the price of ice during the summer of 1913; and to institute proceedings, under said chapter 709, if the results of the investigation so warrant.

While the order does not specify what the Attorney-General shall do with the information when it is obtained, I assume that it was intended to report the same to the House of Representatives at its next session. Pursuant thereto I submit this report.

Immediately upon receipt of the order I started the investigation in all the cities and largest towns of the Commonwealth, simultaneously through the State police and the local police departments. The ice companies were requested to answer a set of thirty-four questions, and many of these answers have been checked by independent investigation. District police officers Keating and Flynn have done much efficient work in this regard as well as investigating many individual complaints. Much voluntary information which has been of assistance has also come from citizens, and many individual complaints have been received with reference to short weight and the size of the pieces sold by the piece. These have been referred to the department of the State Sealer of Weights and Measures for prosecution, and a general opinion with reference to the rights of the public in this regard was issued by me through the department of the Sealer of Weights and Measures, which carried on an active campaign against these irregularities. Local authorities also were stimulated to carry on this work.

The last report from the police was received on July 14, and all information and answers of the companies inquired of were submitted to Duthie-Strachan Co. (Inc.), certified public accountants, for analysis and tabulation. It appears from this tabulation that the total number of ice dealers, covering all the cities in the Commonwealth and some of the

larger towns, is 167. Reports were obtained for the years 1910, 1911, 1912 and up to June 1 of 1913. The final comparisons are between the years 1912 and 1913, of data as of June 1 of each year. The total available supply of ice of the 167 companies investigated, including both the supply of ice within the Commonwealth and available outside the Commonwealth June 1, 1912, was 1,880,734 tons; for 1913, 1,376,877 tons, or a total diminution of supply of 27 per cent.

A very wide difference among the companies appears in different localities, so that a consideration of the shortage throughout the Commonwealth as a whole is of no definite value with reference to the action of any particular company in fixing prices.

As to the rise in prices, the tabulation shows that a comparatively small number of ice dealers handle almost half the total supply in the Commonwealth. A striking feature is that retail prices were not raised by dealers in 18 cities and towns supplying 45 per cent. of the total amount throughout the Commonwealth, although these dealers suffered a shortage in supply of 19.5 per cent. under their 1912 supply. On the other hand, retail prices were raised by dealers in 39 cities and towns, controlling 49 per cent. of the total supply throughout the Commonwealth, who have reported a shortage in their 1913 supply of 33.14 per cent. It is apparent that the mere shortage of supply is not conclusive evidence of justification of increase in the prices charged for this season. This is also shown by statements of the companies themselves in reply to my request to state their own reasons for justification for an increase. Of the companies inquired of, 11 made no answer; 60 claimed that the shortage was responsible; 23 that there was an increase in the wholesale price to them; 2 the necessity of purchasing outside the Commonwealth, and 18 claimed as a reason the increased cost of business and of handling the ice.

Consideration of the individual dealers discloses a very wide variation in their condition, but it is impossible to cite or discuss the particulars with reference to each locality or company in a report of this nature. For these I refer to the

report of the accountants, herewith transmitted, as well as for other factors which must be considered, besides the mere question of supply and shortage, in determining justification for increases. Various costs, expenses and shrinkages, and finally the ratio of profit per ton and the ultimate net profit to the dealer, must be ascertained. As much of this information required is solely within the control of the ice companies themselves, especially the ratio of profit per ton and the ultimate net profit to the dealer, and as I have no authority or power to command such information, I have not attempted to obtain it. I assume, however, that it is within the authority of the Legislature, with its broader powers, to procure the evidence desired to pursue the results of the investigation to a further conclusion.

With regard to the last requirement of the order of the honorable House, "to institute proceedings under said chapter 709 if the results of the investigation so warrant," I have to say that a very careful consideration of the facts concerning the situation in each of the localities where there was any definite amount of evidence was made by me. Not only is the law in this regard practically untried within this jurisdiction, but the evidence to prove cases which would justify a prosecution is most difficult to obtain. The situation in the city of Lynn, however, disclosed definite evidence of an agreement in writing concerning the ice business, of an apparent combination known as the North Shore Ice Delivery Company, combining the Lynn Ice Company, the Coolidge Ice Company, the Chase Ice Company, the Independent Ice Company, the Glenmere Ice Company and the Brown Pond Ice Company. Inasmuch as the continuous hearings in the trial of the case of Haverhill Gas Light Co. v. Board of Gas and Electric Light Commissioners engaged practically all my time during the urgent period of investigation of this ice situation, I employed Lee M. Friedman, Esq., of Boston, who has made a special study of this branch of the law, to act as special counsel in the prosecution against this Lynn combination. All preliminary matters in court have been concluded and the case is likely to be reached for

trial on its merits at an early date. I believe that the outcome of this case will disclose more exactly the value of our Massachusetts law covering the situation.

SUPREME JUDICIAL COURT.

As law officer of the Supreme Judicial Court it has come to my attention that in the interests of efficiency in the work of that judicial body, and so in the interests of the public service certain changes should be made with reference to the location and work of the court. I deem it my duty to suggest these changes to the Legislature, particularly as they supplement matters discussed recently in the inaugural of His Excellency Governor Walsh. In one paragraph of the inaugural His Excellency stated: "There is urgent need of relief for the Supreme Court of Massachusetts." In addition to the change therein suggested, it should be called to your attention that further relief may be obtained by permitting the Supreme Judicial Court to hold all of its law sittings in Boston, and to omit the sittings now required by statute to be held in the outside counties, except when for particular reasons it may seem to the court advantageous to hold the sittings outside of Boston. A very considerable amount of time of the court is taken in these sittings in the outside counties, but the number of cases and matters presented to the court at these sittings is apparently not of sufficient amount to warrant the time now spent in this method of disposing of the business throughout the State. This question has already been much discussed among members of the bar and by bar associations, and at its recent meeting the Massachusetts Bar Association, representing a large proportion of the bar throughout the Commonwealth, voted to take action seeking to bring about the change suggested herein.

Another matter to which I call the attention of the Legislature is that of quarters for the Supreme Judicial Court. These also I suggest in supplement to the recommendation in the inaugural of His Excellency, that provision should be made in the extensions of the State House to make it, when

completed, capable of accommodating all departments of the State government. The Supreme Judicial Court is a court for the entire Commonwealth, and there is no sound reason why such a judicial body should be quartered in the court house of Suffolk County. It is a matter of common knowledge that the county court house in Suffolk is already overcrowded, and that suitable quarters for the efficient and proper dispatch of its business have not been provided for the members of our highest court. With its law sittings in the outside counties abolished, so that the court might sit continuously in Boston for hearing matters from all parts of the Commonwealth, it would be most fitting that this court should have quarters provided in the State House, as is the case in nearly all the States of the Union and in the case of the Supreme Court of the United States at Washington. I have already called this matter to the attention of the State House Commission and discussed it with them. Tentative plans have been suggested which would indicate that such quarters could be provided conveniently and economically, so that the court could dispose of its own business to much greater advantage. The congestion and overcrowding of the other courts in the Suffolk County court house would also be relieved.

I earnestly suggest that this whole matter should receive careful consideration at the hands of your honorable bodies.

The chief justice of the Supreme Judicial Court has also suggested to me that with the increase in the number of cases that come before that court the amount now allowed to the justices for clerical assistance under the provisions of Revised Laws, chapter 156, section 27, is not sufficient. He requests that the sum now allowed by that statute of \$2,500 be increased to \$6,000, and I recommend that the statute be so amended.

DEPARTMENT OF THE ATTORNEY-GENERAL.

The pressure of work upon this department has remained as during the preceding two years, at a very high point. The number of official written opinions given by me during the year is 204. The total number of matters requiring the attention of the office was 5,735.

During the year, 11 cases have been argued before the Supreme Judicial Court of the Commonwealth, and in the Supreme Court of the United States there have been argued and disposed of the cases involving the constitutionality of the law concerning taxation of foreign corporations, *Baltic Mining Company v. Commonwealth of Massachusetts* and *S. S. White Dental Manufacturing Company v. Commonwealth of Massachusetts*, in both of which the Commonwealth was successful in sustaining the law. There is now pending in the United States Supreme Court 1 case, which will be reached for argument shortly, this case being *Richard G. Riley v. Commonwealth of Massachusetts*, writ of error to the Superior Court of Bristol County to set aside a conviction for violation of the law governing the employment of women in factories, and contesting the constitutionality of the law and of its provisions with respect to fixing the hours of labor for women. It is therefore to be observed that the case is of great importance with reference to some of the fundamental principles upon which our labor laws are founded.

A very great amount of my time and that of Assistant Attorney-General Greenhalge has been taken during the year with the various phases of litigation concerning the Haverhill Gas Light Company, for which, by reason of its extreme importance, the Legislature made a special appropriation last year of \$15,000. The expense made necessary for the proper investigation of the affairs of the company has caused even a larger expenditure for accountants and investigators than I anticipated, and this appropriation has already been overdrawn, and I have requested an additional appropriation of \$10,000 for the ensuing year. It will be recalled that the Board of Gas and Electric Light Commissioners ordered a reduction in the price of gas in Haverhill to 80 cents per thousand feet, and that the Gas Light Company filed its petition in the Circuit Court of the United States to enjoin the Board of Gas and Electric Light Commissioners and the Attorney-General from enforcing this 80 cent order. The case was referred to a master to take the evidence, etc., and some forty hearings have already been held on the case, and the Commonwealth is now in the midst

of presenting its evidence. This case is likely to consume much more time before its final disposition.

By reason of the necessity of almost complete attention for many weeks to this case of one of the assistants, it became necessary for me to procure additional help for the office, and on July 1 I appointed Thomas O. Jenkins, Esq., of Salem, as a law clerk. His zeal in the performance of his duties and his utility in the office have caused me since that time to designate him as an assistant attorney-general.

During the year, in accordance with the resolve of the Legislature of 1913, I have had prepared and published volume III. of the Opinions of the Attorneys-General, which have just been received from the press and distributed in accordance with the authority of said resolve.

In accordance with the authority granted by the Governor and Council, I have also under preparation the publication of the trial of Bertram G. Spencer, who was convicted of murder in the first degree in Hampden County and later executed, after the Supreme Judicial Court had sustained the conviction. I assume that this valuable contribution to the legal literature of the Commonwealth will be completed and published in due course.

In closing my official connection with this department I desire to attest my appreciation of the ability, fidelity and earnestness with which the Assistant Attorneys-General, Frederic B. Greenhalge, Esq., Andrew Marshall, Esq., Henry M. Hutchings, Esq., Walter A. Powers, Esq., and Thomas O. Jenkins, Esq., have performed their respective duties and responsibilities. They have rendered to the Commonwealth service of a very high order.

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

Respectfully submitted,

JAMES M. SWIFT,
Attorney-General.

OPINIONS.

Statute — Limit of Time for holding Articles of Food in Cold Storage — Prospective in Effect.

The provision of St. 1912, c. 652, § 5, that “no article of food shall be held in cold storage within this commonwealth for a longer period than twelve calendar months, except with the consent of the state board of health as hereinafter provided,” is not retroactive in effect, and is not applicable to goods received into cold storage previous to Sept. 1, 1912, the date upon which such statute took effect.

JAN. 1, 1913.

MARK W. RICHARDSON, M.D., *Secretary, State Board of Health.*

DEAR SIR: — You have requested my opinion as to whether, under section 5 of chapter 652 of the Acts of 1912, providing that “no article of food shall be held in cold storage within this commonwealth for a longer period than twelve calendar months, except with the consent of the state board of health as hereinafter provided,” with reference to goods received into cold storage previous to Sept. 1, 1912, the period of twelve calendar months is to be construed as running from the date when the food was actually received into cold storage or from the first day of September, 1912, the day upon which, under the provisions of section 12, the act took effect.

In my opinion the period of twelve months is to be considered as running only from the first day of September, 1912. Statutes are considered prospective unless the language is such as to show clearly that they were intended to be retrospective. *North Bridgewater Bank v. Copeland*, 7 Allen, 139; *Haverhill v. Marlborough*, 187 Mass. 155; *Somerset v. Dighton*, 12 Mass. 383. The statute in question contains no provision indicating that it was the intent of the Legislature that the statute should have a retroactive effect. On the contrary, section 12 contains the simple and unqualified provision that the act shall take effect on the first day of September, 1912.

For the purposes of administration of the law, it would seem that no other construction is possible. Section 4 provides that all articles of food *when deposited* in cold storage shall be

marked plainly with the date of receipt on the containers in which they are packed, but it would hardly be practicable to determine the date of receipt of goods received into storage before Sept. 1, 1912, in the absence of such markers.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Solitary Confinement — Juvenile Reformatory School — Inmate — Officer — “Constant Supervision.”

Under the provisions of St. 1911, c. 265, § 1, that “it shall be unlawful for the officers of any juvenile reformatory school to place an inmate in any cell, room or cage in solitary confinement,” the term “solitary confinement” imports an involuntary restraint in solitude, as a disciplinary penalty for some offence committed, and if the assignment of an inmate of such a school to a separate room is not made as a punishment for an offence committed while an inmate thereof, but is due merely to the segregation of inmates in the ordinary management and discipline of the school, or is a part of the treatment for the correction of moral delinquencies or physical defects, it does not constitute solitary confinement within the meaning of such provision.

Under the further provision of St. 1911, c. 265, § 1, that, “whenever restraint or separation from the other inmates is necessary, confinement shall be permitted only in a place where the inmate is under the constant supervision of an officer of the school,” an inmate of such a school may be confined alone in a cell, room or cage if such confinement is not in the nature of a punishment, or may be confined in a cell, room or cage as a punishment provided such inmate is under the constant supervision of an officer of the school.

The term “constant supervision,” as used in St. 1911, c. 265, § 1, does not mean the continuous or uninterrupted presence of an officer in the same cell, room or cage with the inmate, but requires a special supervision or observation sufficiently close to keep such officer constantly informed of the conduct and situation of such inmate.

Under the provisions of St. 1911, c. 265, § 1, inmates of juvenile reformatory schools occupying their own single bedrooms at night, with the doors closed and opening off and upon either side of a long corridor, are not so separated from the other inmates as to require constant supervision by an officer of such school, but if an inmate is, for disobedience, confined alone in such a bedroom either with or without further physical restraint, such confinement would require the constant supervision of such officer.

JAN. 15, 1913.

F. LESLIE HAYFORD, Esq., *Executive Secretary, Trustees of Massachusetts Training Schools.*

DEAR SIR:— In behalf of the trustees of the Massachusetts Training Schools you have submitted to me several questions as to the interpretation to be given to St. 1911, c. 265, § 1, which provides as follows:—

It shall be unlawful for the officers of any juvenile reformatory school to place an inmate in any cell, room or cage in solitary confinement. Whenever restraint or separation from the other inmates is necessary, confinement shall be permitted only in a place where the inmate is under the constant supervision of an officer of the school.

Since the answer to the seventh question is really the key to the answers to all the questions, it may serve to simplify the discussion if I answer first the question which you have propounded as the seventh.

7. What constitutes solitary confinement in a cell, cage or room within the meaning of these terms as used in said statute?

The term "solitary confinement," in its ordinary use, has a technical meaning, of which the essential elements are involuntary restraint in solitude as a disciplinary penalty for some offence committed. The restraint is usually in a special place, stripped of most of the bodily comforts except such as are necessary to maintain health, and designed in the simplicity of its equipment to have so far as possible a chastening effect upon the occupant. The solitude consists not only of being alone but also of being deprived of intercourse with others except for the conveyance of food and other necessary purposes.

The term as used in this statute is, in my opinion, to be construed as used in its technical sense so far as that technical construction is consistent with the other terms of the act. Assuming that the act was intended to apply to the Industrial School for Girls, the Legislature must be presumed to have had knowledge of the tendencies of many of the inmates of the school and of the methods of administration which it is necessary to adopt to meet and correct those tendencies. The Legislature must also be presumed to have knowledge of the fact that the construction of the buildings of the institution is specially adapted to the needs of the inmates, with single rooms opening from common corridors. The statute is to be reasonably con-

strued and in accordance with the intent of the Legislature so far as that intent may be determined. In the absence of express provision to accomplish the result, it is not to be supposed that the Legislature, by the enactment of the statute in question, intended to affect the normal administration of the school, or to alter the methods by which the needs of the inmates were ministered unto, or to cause to be changed the physical structures of the buildings. The effect of the statute is merely to prohibit the trustees from using certain recognized forms of punishment for offences committed in the school. If the assignment of an inmate to a single, separate room is not made as a punishment for an offence committed while an inmate of the school, but is merely due to the segregation of inmates in the ordinary management and discipline of the school, designed for the benefit of all the inmates, or is a part of the ordinary treatment for the correction of moral delinquencies or physical defects, it does not constitute, therefore, solitary confinement within the meaning of the act.

Resuming, then, the order in which the questions have been asked by you:—

1. Does this act absolutely prohibit the placing of an inmate of a juvenile reformatory institution alone, by himself or by herself, in "any cell, room or cage?" Or does it permit it when the inmate is under "constant supervision" of an officer?

In my opinion the statute does not prohibit the placing of an inmate of a juvenile reformatory institution alone, by himself or by herself, in a room if it is not done as a punishment. It does not prohibit placing him or her alone in a cell, room or cage if while kept in the cell, room or cage the inmate is under constant supervision of an officer, for the reason that if he or she is under constant supervision of an officer, as "constant supervision" is hereafter defined, he or she is not technically in solitary confinement.

2. What does the phrase "constant supervision" of an officer, as used in this statute, mean? Does it mean absolutely the continuous or unintermittent presence of an officer with the inmate, or does it mean only a special supervision or observation, intermittent, but at regular or recurring intervals, sufficiently frequent to secure the well-being of the inmate? If an intermittent or recurring period is sufficient, how long may this intermission be?

In my opinion the term "constant supervision" does not mean the continuous or unintermittent presence of an officer in the same cell, room or cage with the inmate, but rather a special supervision or observation of the inmate, sufficiently close and immediate to keep the officer informed of the conduct of the inmate and to insure detection by the officer of any act or attempt of the inmate which might affect his or her well-being. The statute does not by its terms require that the confinement shall be in the actual presence of an officer, and the usual distinction between a thing done by or in the presence of a person and a thing done under the supervision of a person is not to be overlooked in the construction of this statute. The question as to the degree in which the observations may be intermittent is, of course, purely a matter of administration of the school, which will be affected by consideration of the peculiar characteristics and requirements of each individual offender. It is, therefore, impossible for me to express an opinion in a form more specific than that the supervision shall be sufficiently constant and immediate to meet the needs of each individual case.

3. Are inmates occupying their own single bedrooms at night with the doors closed, and opening off, on either side of, a long corridor, so "separated from the other inmates" as to require "constant supervision of an officer" within the meaning of this statute? (It may be assumed in this question that officers occupy bedrooms on the same floor.)

Assuming that the inmates are merely occupying their own bedrooms in the usual course of their life at the school, and not as a penalty for an offence committed at the school, the question is, in my opinion, clearly to be answered in the negative. The mere fact that the inmates occupy single bedrooms does not in itself constitute separation as contemplated by the act.

4. Does the situation where inmates are sent for disobedience to their own bedrooms, alone, and told to close the door and remain within, without other means of detention, constitute solitary confinement in a "cell, room or cage" within this act? Does such a situation call for "constant supervision of an officer?"

Considering the phraseology of the statute, including the word "room," without qualification, as a contemplated place of confinement, I am of the opinion that the trustees should adopt a construction of the statute requiring constant supervision in

such a situation as that presented by this question. Here, again, the nature of the constant supervision required would vary according to the disposition of the inmate, according to the seriousness of the offence committed and according to the temper of the inmate at the time of confinement. The supervision required by the statute in this situation will naturally differ widely from that required in the case of an inmate locked in a room and restrained in such a manner as to prevent physical violence.

5. If an inmate is in his or her own single bedroom for cause, and is handcuffed or otherwise restrained there, to prevent harm to him or herself, or to prevent destruction of the furniture or property in the room, does this bedroom become "a cell, room or cage" within this act?

While the inmate's own room could not be considered as a place of solitary confinement except under the phraseology of an act so manifestly aimed at limiting and restricting the use of the ordinary modes of discipline, I am of the opinion that the term "cell, room or cage" should be considered by the trustees as sufficiently broad to include the inmate's own bedroom, and that therefore the inmate so restrained should be given such constant supervision as would be adapted to the needs of the situation.

6. Is sending one or more inmates to the third floor of a cottage to sleep in single bedrooms (the rooms being more isolated than in question 3), the doors of which are not locked, but in which the inmate is supposed to remain for the night with the door closed, either such separation from the other inmates, or such restraint, or such confinement, within the words of this act, as to require the "constant supervision" as used in this act?

If the word "sending" is to be considered as having merely the meaning of "assigning," and such assignment of rooms is not made as a penalty for an offence, I am of the opinion that the assignment is not subject to the provisions of the statute. If, however, the word "sending" is to be considered as having the significance of sending as a penalty for an offence, I am of the opinion that whether the doors of the rooms to which the inmates are sent are locked or unlocked, constant supervision, as applicable to the circumstances of the case, is required by the terms of the act.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

City and Town — Regulation of Traffic — Vehicles — Massachusetts Highway Commission — Approval.

An ordinance of a city regulating the use of the streets, sidewalks and highways therein, and relating to vehicles of all kinds, both "motor and horse-drawn," does not require the approval of the Massachusetts Highway Commission under the provisions of St. 1909, c. 534, § 17, that "the city council of a city . . . may make special regulations as to the speed of motor vehicles and as to the use of such vehicles upon particular ways, and may exclude such vehicles altogether from certain ways; provided, however, that no such special regulation shall be effective . . . until after the Massachusetts highway commission shall have certified in writing, after a public hearing, that such regulation is consistent with the public interests."

JAN. 16, 1913.

FRANK I. BIELER, Esq., *Secretary, Massachusetts Highway Commission.*

DEAR SIR: — Your letter of December 19 states that the Massachusetts Highway Commission has received "a copy of an ordinance and amendment thereto regulating the use of the streets, sidewalks and highways in the city of Lawrence, this ordinance relating to vehicles of all kinds, motor and horse-drawn. The city authorities have referred the matter to the commission, a question having arisen as to whether or not the ordinance should be submitted to this Board for its approval or otherwise, under the provisions of section 17, chapter 534 of the Acts of 1909," and you inquire whether or not the approval of said commission is required in the premises.

The section to which you refer, so far as material, provides as follows: —

The city council of a city or the board of aldermen of a city having no common council, and the selectmen of a town, and boards of park commissioners, as authorized by law, may make special regulations as to the speed of motor vehicles and as to the use of such vehicles upon particular ways, and may exclude such vehicles altogether from certain ways; provided, however, that no such special regulation shall be effective unless it shall have been published in one or more newspapers, if there be any, published in the city or town in which the way is situated, otherwise in one or more newspapers published in the county in which the city or town is situated; nor unless notice of the same is posted conspicuously by the city, town, or board of park commissioners making the regulation at points where any way affected thereby joins other ways; nor until

after the Massachusetts highway commission shall have certified in writing, after a public hearing, that such regulation is consistent with the public interests; . . .

In my opinion this provision was not intended to require that regulations relating to the use of public streets and general regulations of traffic thereon should be approved by the Massachusetts Highway Commission and is applicable only to special regulations as to the speed of motor vehicles and as to the use of such vehicles upon particular ways, including their exclusion therefrom. Since the particular ordinance submitted to said commission involves a general regulation of traffic, and is not a special regulation applicable only to motor vehicles, it follows that the Massachusetts Highway Commission is not required to certify in writing that such ordinance is consistent with the public interests.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Trust Company — Savings Department — Loan to Single Individual.

The limitation in section 34 of chapter 116 of the Revised Laws, relating to trust companies, that "the total liabilities of a person . . . for money borrowed . . . to such corporations having a capital stock of five hundred thousand dollars or more shall at no time exceed one-fifth part of the surplus account and of such amount of the capital stock as is actually paid up," is inconsistent with the subsequent provision in St. 1908, c. 590, § 68, regulating the investment of deposits in savings banks and the income thereof, that such deposits and income may be invested "in loans of the classes hereafter described, payable and to be paid or renewed at a time not exceeding one year from the date thereof; but not more than one-third of the deposits and income shall so be invested, nor shall the total liabilities to such corporation of a person, partnership, association or corporation for money borrowed upon personal security . . . exceed five per cent of such deposits and income," which provision is made applicable to the savings departments of trust companies by St. 1908, c. 520, § 2, and with respect to deposits and income in the savings department of a trust company is repealed by the provision in section 16 of the latter statute that "all acts and parts of acts inconsistent herewith are hereby repealed." It follows that the deposits and income in the savings department of such trust company may be loaned to a person, partnership, association or corporation to the amount of 5 per cent. of such

deposits and income, provided that the borrower is not otherwise indebted to the trust company. If, however, a person, partnership, association or corporation borrows to the extent of 5 per cent. of such deposits and income, no further loans may be obtained from the corporation either in its savings department or in its commercial department; and if the loan has already been secured through the commercial department in accordance with the provisions of R. L., c. 116, § 34, the amount so obtained must be considered in determining the amount of any loan from the savings department so that the combined sum of the indebtedness shall not exceed 5 per cent. of the deposits and income of the savings department.

FEB. 5, 1913.

HON. AUGUSTUS L. THORNDIKE, *Bank Commissioner*.

DEAR SIR:— You have submitted for my consideration an inquiry relating to the application of R. L., c. 116, § 34, to the savings department of a trust company. This provision is as follows:—

The total liabilities of a person, other than cities or towns, for money borrowed, including in the liabilities of a firm the liabilities of its several members, to such corporations (trust companies) having a capital stock of five hundred thousand dollars or more shall at no time exceed one-fifth part of the surplus account and of such amount of the capital stock as is actually paid up, . . .

St. 1908, c. 520, prescribing the manner in which a trust company may receive deposits in its savings department, provides, in section 2, that—

All such deposits shall be special deposits and shall be placed in said savings department, and all loans or investments thereof shall be made in accordance with the statutes governing the investment of deposits in savings banks. . . .

St. 1908, c. 590, § 68, which regulates the investment of deposits in savings banks and the income derived therefrom, provides that such deposits and income may be invested:—

Eighth. In loans of the classes hereafter described, payable and to be paid or renewed at a time not exceeding one year from the date thereof; but not more than one-third of the deposits and income shall so be invested, nor shall the total liabilities *to such corporation* of a person, partnership, association or corporation for money borrowed upon personal security, including in the liabilities of a partnership or company not incorporated the liabilities of the several members thereof, exceed five per cent of such deposits and income.

Your specific inquiry is whether or not "the provisions of section 2, chapter 520, Acts of 1908, enlarge or extend the limitations upon personal borrowings as first defined in section 34, chapter 116, Revised Laws, so that it would be legal for a trust company to simultaneously loan the same parties in its banking or commercial department to the limit named in said section 34 and in its savings department to the limit named in the eighth clause of section 68, chapter 590, Acts of 1908."

It is obvious that the limitation in R. L., c. 116, § 34, is inconsistent with the subsequent provision of St. 1908, c. 590, § 68, cl. 8, and since, in the latter statute, it is provided, in section 16, that "all acts and parts of acts inconsistent herewith are hereby repealed," I am of opinion that in respect of such inconsistency St. 1908, c. 590, § 68, cl. 8, should govern, and the deposits and income in the savings department of a trust company may be loaned to a person, partnership, association or corporation to the amount of 5 per cent. of such deposits and income, provided that the borrower is not otherwise indebted to the trust company. Since, however, this clause fixes the total liability of a borrower from such a corporation at 5 per cent. of the deposits and income in the savings department, it follows that, having borrowed to that extent, a person cannot obtain any further loans from the corporation either in its savings department or in its so-called commercial department, and that if he has already secured a loan from the commercial department in accordance with the provisions of R. L., c. 116, § 34, the amount so obtained must be considered in determining the amount of any loan from the savings department, so that the combined sum of his indebtedness shall not exceed 5 per cent. of the deposits and income of the savings department, and that, if such person first secures a loan from the savings department for an amount which exceeds one-fifth of the capital stock of the corporation, he cannot thereafter secure a loan from the commercial department, since his total liabilities "to such corporation" for moneys borrowed already exceeds one-fifth of said capital stock.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

*Commonwealth Pier — Old Colony Railroad Company — Lease
— Cancellation — Directors of the Port of Boston —
Agreement — Execution — Date.*

Where the Directors of the Port of Boston, acting under the authority of St. 1911, c. 748, §§ 4 and 5, executed a contract with the Old Colony Railroad Company, and its lessee, the New York, New Haven & Hartford Railroad Company, by which an existing lease to the Old Colony Railroad Company from the Board of Harbor and Land Commissioners of the Commonwealth Pier at a quarterly rental of \$17,500 was cancelled, and it was provided that the Old Colony Railroad Company and its lessee should be absolved and discharged from any further obligation or promises under or by virtue of said lease, except the payment of any unpaid rent up to July 1, such agreement being dated "this first day of July, 1912," but not executed in fact until Oct. 10, 1912, the agreement so drawn and executed was effectual to relieve the lessee of the obligation to pay rental for the period of the continuance of the lease after July 1, and the Old Colony Railroad Company or its lessee may justly claim that the rental paid for the months of July and August should be reimbursed to it in accordance with the terms of such agreement.

In view of the fact that the payment was required to be made by force of an existing lease, it may be doubted whether such reimbursement should be made without express authority from the Legislature.

WILLIAM D. HAWLEY, Esq., *Deputy Auditor.*

FEB. 6, 1913.

DEAR SIR: — By an instrument dated Nov. 1, 1910, the Board of Harbor and Land Commissioners leased to the Old Colony Railroad Company, for the term of thirty years, the property known as the "Commonwealth Pier," the consideration for said lease being the payment by the company of the sum of \$70,000 yearly, by quarterly payments, as follows: "Seventeen thousand five hundred (17,500) dollars on the first day of March, 1911, and the same sum thereafter on the first day of June, September, December and March in each and every year during said term."

By St. 1911, c. 748, an act relating to the development of the port of Boston, the Governor, in section 1, was authorized, with the advice and consent of the Council, to appoint three persons and the mayor of the city of Boston to appoint one person, to constitute the Directors of the Port of Boston. By section 2 the directors so appointed were made the administrative officers of the port, to —

cause to be made all necessary plans for the comprehensive development of the harbor,

and to have immediate charge of the lands now or hereafter owned by the commonwealth upon or adjacent to the harbor front, except lands under the control of the metropolitan park commission or of the metropolitan water and sewerage board, and of the construction of piers and other public works therein, shall administer all terminal facilities which are under their control, shall keep themselves thoroughly informed as to the present and probable future requirements of steamships and shipping, and as to the best means which can be provided at the port of Boston for the accommodation of steamships, railroads, warehouses and industrial establishments.

Section 4 is as follows:—

All the rights, powers and duties now pertaining to the board of harbor and land commissioners in respect to such lands, rights in lands, flats, shores, waters and rights belonging to the commonwealth in tidewaters and land under water as constitute that part of Boston harbor lying westerly and inside of a line drawn between Point Allerton on the south and the southerly end of Point Shirley on the north, or as adjoin the same or are connected therewith, and any other rights and powers heretofore vested by the laws of the commonwealth in the board of harbor and land commissioners in respect to any part of said area, are hereby transferred to and hereafter shall be vested in and exercised by said directors. There shall also be transferred to and vested in the directors the right to expend any unexpended funds heretofore appropriated to be expended by the board of harbor and land commissioners in the area above designated, and the right which the board of harbor and land commissioners has heretofore exercised in regard to moneys paid to the commonwealth in accordance with the provisions of section twenty-three of chapter ninety-six of the Revised Laws. Said directors shall also assume and take over, on behalf of the commonwealth, any rights, powers and duties of the board of harbor and land commissioners under any contracts heretofore made for the improvement, filling, sale, use or other disposition of the lands, flats or waters of the commonwealth within said area, including any structures now existing or being built therein or thereon.

Section 5 provides, in part, that—

With the consent of the governor and council, the directors may take or acquire by purchase or otherwise, and hold, such real property and such rights and easements therein as the directors may from time to time consider necessary for the purpose of constructing, or securing the constructing or utilizing of, piers and, in connection

therewith, highways, waterways, railroad connections, storage yards and sites for warehouses and industrial establishments, and may lay out and build thereon and upon such other lands as under section four of this act are under its jurisdiction, such piers, with buildings and appurtenances, docks, highways, waterways, railroad connections, storage yards and public warehouses as, in the opinion of the directors, may be desirable.

Acting under the provisions of, and exercising the very broad powers conferred by, these provisions, the Directors of the Port of Boston entered into negotiations with the directors of the Old Colony Railroad Company and of its lessee, the New York, New Haven & Hartford Railroad Company, looking to the cancellation of the lease already referred to, and a tentative agreement for that purpose was submitted to the Directors of the Port of Boston in a letter addressed to them on July 1, 1912. The actual agreement or contract for such cancellation was not, however, finally executed by said directors until October 10, although it had been executed by the company some days prior to that date, and such agreement or contract was not approved by the Governor and Council until November 6. The agreement as originally drawn and as finally executed by both parties was dated "this first day of July, 1912," and contained a stipulation that —

The lease dated Nov. 1, 1910, . . . is hereby cancelled and terminated as of the date of this instrument, the Commonwealth assuming full control of said property so leased, and the Old Colony and its lessee the New Haven being absolved and discharged from any further obligation or promises under or by virtue of said lease, except the payment of any unpaid rent up to July 1.

The Old Colony Railroad Company or its lessee, the New York, New Haven & Hartford Railroad Company, upon September 1 paid the quarterly rent as provided for in the lease of Nov. 1, 1910, amounting to \$17,500, and the lessee, the New York, New Haven & Hartford Railroad Company, in view of the terms of the instrument as finally executed, has made formal application to the Auditor of the Commonwealth that the amount of such payment covering the months of July and August, which is \$11,666.67, be refunded to it. The matter is now before me upon your inquiry as to whether the New York, New Haven & Hartford Railroad Company is entitled to the amount claimed by it, and whether, if said company is entitled to the

amount claimed, it may be paid without further action of the Legislature.

All deeds or contracts should regularly be dated on the day of their execution, and in the absence of other evidence upon the subject it has been held reasonable and safe to conclude in any particular instance that a legal instrument by which property is conveyed was completed on the day on which it bears date. *Smith v. Porter*, 10 Gray, 66, 68. This presumption, however, is subject to proof by extraneous evidence that the instrument was in fact dated upon another day. *Lee v. Massachusetts Insurance Co.*, 6 Mass. 208; *Dresel v. Jordan*, 104 Mass. 407, 417.

It is clearly established, however, that the date upon a deed or contract is not essential to the validity of the instrument. *Lee v. Massachusetts Insurance Co.*, *supra*; *Joseph v. Bigelow*, 4 Cush. 82, 84. The agreement now under consideration, in respect to its validity, would not be affected if the date of its execution were entirely omitted. This being so, I am of opinion that the question now raised must depend upon the intention of the parties to the agreement and not upon the date of its execution. Upon its face it purports to be a cancellation of the existing lease, from July 1, 1912, and to release the lessee from any obligation to make payments of the rent required thereunder which accrued after said date. I am advised that the provision that the obligations of the lessee should terminate upon July 1, 1912, was not intended to be dependent upon the date of the actual execution of the instrument, and was designedly retained notwithstanding that such execution was not formally completed until the month of October. Such being the intent of the parties, I am of opinion that the instrument was effectual to relieve the lessee of the obligation to pay rental for the period of the continuance of the lease after July 1, and that the Old Colony Railroad Company or the New York, New Haven & Hartford Railroad Company, its lessee, may justly claim that the rental paid for the months of July and August should be reimbursed to it in accordance with the terms of the agreement; but in view of the fact that the payment, when made, was required to be made by force of an existing lease, it is doubtful if such reimbursement should be made without express authority from the Legislature.

Very truly yours,

JAMES M. SWIFT, *Attorney-General*.

Cities and Towns — Private Way — Width and Grade — Regulation — Constitutional Law.

The term "private way" in its technical sense imports a way laid out under the provisions of R. L., c. 48, § 65, and the following sections, and is, in fact, a public way laid out by public officers for the common necessity and convenience; and the Legislature may authorize a city or town to make ordinances or by-laws controlling the construction of such ways with respect to width and grade. Upon the other hand, a way over private land in which the public has no interest cannot be regulated and controlled as to width or grade by the ordinances of a city or the by-laws of a town.

FEB. 6, 1913.

HON. CLARENCE W. HOBBS, Jr., *Senate Chairman, Committee on Cities.*

DEAR SIR:— On behalf of the committee on cities you have submitted to me the following question of law: "Is it within the power of the Legislature to authorize a city or town to make ordinances controlling the construction of private ways in respect to width and grade; and if such authority were given, would it be possible for a city or town to provide that all private ways must be of a determined width and a grade approved by the proper officials of the city or town?"

The term "private way," in its technical sense, means a way laid out under the provisions of R. L., c. 48, § 65, and the following sections, and differs from a town way in the fact that the damages occasioned by its being laid out are assessed in whole or in part upon the person or persons for whose benefit it is constructed. *Flagg v. Flagg*, 16 Gray, 175. "Such ways are laid out by public officers as branches of public roads, upon the implied ground . . . that the common convenience and necessity require such laying out." *Denham v. County Commissioners*, 108 Mass. 202. The laying out of either town ways or private ways is not restricted in respect to width and grade, such matters being left to the discretion of the selectmen or road commissioners, to be determined by the public necessity or convenience in each particular case; but I have no reason to doubt that the Legislature may authorize a city or town to limit the actual construction of such ways in respect to width and grade.

Upon the other hand, a way over private land in which the public has no interest, the way and the land over which it passes being private property, could not be regulated or controlled as to width or grade by the ordinances of a city or the by-laws of a town.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

State Board of Health — Cities and Towns — Boards of Health — Rules and Regulations relating to the Keeping and Exposure for Sale of Articles of Food — Approval — Public Hearing.

Under the provisions of R. L., c. 56, § 70, as amended by St. 1912, c. 448, that "boards of health of cities and towns may make and enforce reasonable rules and regulations, subject to the approval of the state board of health, as to the conditions under which all articles of food may be kept for sale or exposed for sale" and that "any person affected by such rules and regulations, in the form in which they are presented to the state board of health for approval, may appeal to the said board for a further hearing," the State Board of Health is not required to hold a public hearing before approving rules and regulations submitted to it unless some person affected thereby has applied to such Board for further hearing.

FEB. 20, 1913.

MARK W. RICHARDSON, M.D., *Secretary, State Board of Health.*

DEAR SIR: — You have called my attention to the provisions of R. L., c. 56, § 70, as amended by St. 1912, c. 448. The amendment adds to the end of said section 70 certain provisions, which, so far as is material to your inquiry, are as follows: —

Boards of health of cities and towns may make and enforce reasonable rules and regulations, subject to the approval of the state board of health, as to the conditions under which all articles of food may be kept for sale or exposed for sale, in order to prevent contamination thereof and injury to the public health. Before the board of health of any city or town submits such rules and regulations to the state board of health for approval it shall hold a public hearing thereon, of which notice shall be given by publication for two successive weeks, the first publication to be at least fourteen days prior to the date of the hearing, in a newspaper published in such city or town, or, if none is so published, in a newspaper published in the county in which such city or town is located. Any person affected by such rules and regulations, in the form in which they are presented to the state board of health for approval, may appeal to the said board for a further hearing, and said board shall not grant its approval to rules and regulations concerning which such an appeal has been taken until it has held a public hearing thereon, advertised in the manner specified above in this section with reference to hearings before boards of health in cities and towns.

You state that "a hearing was held before the Boston Board of Health in accordance with the statutes, and the rules and

regulations were duly presented to the State Board of Health for its approval, which approval was given by the State Board of Health at a meeting held Feb. 6, 1913;” and that you have received a letter “protesting against these regulations and against the action of the State Board of Health in approving the said regulations without a public hearing;” and that “no request for such a hearing was made to the State Board of Health, however, and the Board concluded, therefore, that there was no opposition to such regulations from the citizens of Boston.” Upon these facts your inquiry is in substance whether or not the State Board of Health “acted within its rights in approving these regulations without holding an advertised hearing.”

In my opinion this inquiry is answered by the provisions above quoted, which require public hearings to be held by local boards of health before making or enforcing any rules or regulations in the premises. The State Board of Health, however, is not required to hold public hearings unless a person affected by such rules and regulations in the form in which they are presented to it appeals to said Board for a further hearing, in which case a public hearing, advertised in the same manner as that required for hearings before local boards of health, must be held. If, as I assume from the statement made by you, no appeal was taken to the State Board of Health, it follows that no public hearing was required in this particular case; such hearing being required only upon appeal to the State Board from the form of the rules and regulations adopted by the local Board.

Very truly yours,

JAMES M. SWIFT, *Attorney-General*.

Land — Registration — Assurance Fund — Income.

In R. L., c. 128, relating to the registration and confirmation of titles to land, the provision of § 100, that the income of the assurance fund established by § 93 shall be added to the principal and invested until it amounts to \$200,000, and thereafter shall be used as far as may be to defray the expenses of the administration of the provisions of this chapter, permits the sum accruing from such fund to be used in addition to the annual appropriation made by the Legislature, unless it is provided that such appropriation shall include all other sums previously appropriated for such purpose.

FEB. 21, 1913.

HON. JOHN E. WHITE, *Auditor of the Commonwealth.*

DEAR SIR:— You have requested my opinion concerning the provisions of R. L., c. 128, §§ 93, 94 and 100, in the following questions:—

1. Should the assurance fund be increased above the amount of \$200,000 by the amounts received under the provisions of section 93?

2. Can the income from this fund from invested securities be used by the Land Court in addition to the amount which is appropriated by the Legislature for expenses of the court?

R. L., c. 128, §§ 93, 94 and 100, provide as follows:—

SECTION 93. Upon the original registration of land, and also upon the entry of a certificate showing title as registered owners in heirs or devisees, there shall be paid to the recorder one-tenth of one per cent of the assessed value of the land, on the basis of the last assessment for municipal taxation, as an assurance fund.

SECTION 94. All money received by the recorder under the provisions of the preceding section shall be paid to the treasurer and receiver general, who shall keep it invested, with the advice and approval of the governor and council, and shall report annually to the general court the condition and income thereof.

SECTION 100. The income of the assurance fund shall be added to the principal and invested, until said fund amounts to two hundred thousand dollars, and thereafter the income of such fund shall be used to defray, as far as may be, the expenses of the administration of the provisions of this chapter, instead of being added to the fund and accumulated.

I am of opinion that it is the intent of the statute that the assurance fund should remain untouched until it has reached the sum of \$200,000, and that thereafter the interest thereon should be used to defray the expenses of the Land Court, and that the payments into the fund of the money received under section 93 should still continue.

In my opinion the annual appropriation made by the Legislature, unless it states that the sum therein named shall include all other sums previously appropriated for that purpose, does not affect the income from said fund. The sum accruing from said fund may be used in addition to the appropriation by the Legislature in any given year.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

License — Steam Boiler or Engine — Locomotive.

A locomotive used by a railroad company for the purpose of making steam to heat its passenger cars, or for operating steam drills, or for any work necessitating the use of steam power other than the actual work of hauling cars, is within the exemption contained in R. L., c. 102, § 78, as amended by St. 1911, c. 562, § 1, that “no person shall have charge of or operate a steam boiler or engine in this commonwealth, except boilers and engines upon locomotives . . . unless he holds a license as hereinafter provided . . .” and a person in charge of or operating a steam boiler or engine thereon is not required to hold a license therefor.

FEB. 24, 1913.

Gen. J. H. WHITNEY, *Chief of the District Police.*

DEAR SIR: — You have requested my opinion on the question whether a locomotive when used by a railroad company for the purpose of making steam to heat its passenger cars, or for the operating of steam drills, or for any work necessitating the use of steam power other than the actual work of hauling cars, is within the exemption contained in the words “except boilers and engines upon locomotives” in R. L., c. 102, § 78, as amended by St. 1911, c. 562, § 1. Section 78, as amended, provides as follows: —

No person shall have charge of or operate a steam boiler or engine in this commonwealth, except boilers and engines upon locomotives, motor road vehicles, boilers and engines in private residences, boilers in apartment houses of less than five flats, boilers and engines under the jurisdiction of the United States, boilers and engines used for agricultural purposes exclusively, boilers and engines of less than nine horse power, and boilers used for heating purposes exclusively which are provided with a device approved by the chief of the district police limiting the pressure carried to fifteen pounds to the square inch, unless he holds a license as hereinafter provided. . . .

Whether a person operating a boiler or engine is within the exception of the statute depends, by its very wording, upon whether it is upon a locomotive. There is no restriction as to the use of a locomotive provided in the enactment. The question whether it is a locomotive or not is determined by its design and its potentiality rather than by any use to which it may be temporarily applied. In the absence of any facts indicating that the locomotive has been changed in form or design, I assume that it is still a steam engine which travels on wheels

turned by its own power and is designed and adapted to travel on a railway and having power to haul cars from place to place.

Upon that assumption, it is still a locomotive according to the ordinary acceptation and dictionary definition of that term, and a person in charge of or operating a steam boiler or engine upon such locomotive is exempted from the requirement for holding a license as provided in the statute. If it is desirable to restrict the use of such locomotives to hauling cars merely, new legislation appropriate to that end will be necessary.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Constitutional Law — Hours of Labor — Fair, Reasonable and Appropriate Exercise of Police Power — Question of Fact.

The constitutionality of a proposed measure limiting the hours of labor of persons employed in certain designated occupations depends upon the determination of the question whether such measure, if enacted, would constitute a fair, reasonable and appropriate exercise of the police power upon the one hand, or an unreasonable, unnecessary and arbitrary interference with the right of the individual to his personal liberty to make such contracts as he deems necessary or proper upon the other.

In the absence of evidence bearing upon the relation which exists between the occupations so designated and the health of those employed in them, the Attorney-General is not sufficiently advised to pass upon the question of the constitutionality of such proposed measures as a question of law.

It is for the Legislature, in the first instance, to determine upon the facts and considerations presented to it, — whether in its judgment there is fair and reasonable ground to say that there is material danger to the public health or to the health of the employees if the hours of labor in the occupations designated are not curtailed.

FEB. 28, 1913.

C. H. WILLIAMS, Esq., *Clerk, Joint Committee on Labor.*

DEAR SIR: — The joint committee on labor has submitted to me copies of three bills, providing for the regulation of the hours of employment in certain occupations, and has requested my opinion as to whether these bills would be constitutional if enacted into law. Senate Bill No. 145 is entitled “An Act fixing hours of employment of employees of express companies,” and provides in section 1 as follows: —

The hours of employment of all employees of firms, persons, corporations or associations engaged in the express business in this

commonwealth shall be limited to nine hours within eleven consecutive hours: *provided, however*, that in case of emergency an officer or agent of such company may request an employee to work over and above nine hours, time over and above nine hours to be paid extra. On Sundays and legal holidays extra labor may be performed at extra compensation and at request of employees. Intimidation of employees or threats of loss of employment by any officer or agent of any such company shall be considered as coercion and "requiring" within the meaning of this section. Any company or its agent which violates the provisions of this act shall forfeit for each offence not less than one hundred nor more than five hundred dollars.

House Bill No. 47 is entitled "An Act relative to the hours of labor of drug clerks," and provides as follows in sections 1 and 2:—

SECTION 1. No registered pharmacist, assistant pharmacist, clerk, apprentice or other employee in any pharmacy, drug store or apothecary shop, shall be required or allowed to work more than twelve hours in any consecutive twenty-four, nor more than sixty-five hours in any consecutive one hundred and sixty-eight, except in particular cases in which the board of registration in pharmacy shall grant specific permission, in due accordance with the provisions of this act.

SECTION 2. The board of registration in pharmacy shall have authority to grant permission to any registered pharmacist who is the owner or manager of any pharmacy, drug store or apothecary shop, to request and to allow any registered pharmacist, assistant pharmacist, clerk, apprentice or other employee to work more than twelve hours in any consecutive twenty-four, or more than sixty-five hours in any consecutive one hundred and sixty-eight: *provided*, that such registered pharmacist, assistant pharmacist, clerk, apprentice or other employee shall not be required or allowed to work more than one hundred and thirty hours in any consecutive three hundred and thirty-six.

House Bill No. 1081 is entitled "An Act to regulate the hours of labor of certain employees in paper mills and other industrial establishments operated day and night," and provides as follows in sections 1, 2 and 3:—

SECTION 1. No person who is employed as a tour-worker in any paper mill, foundry, factory or any manufacturing or mechanical or other industrial establishment which is in operation both day and night, either continuously or intermittently, shall, except in case of emergency, be required, requested or permitted to work more than

forty-eight hours in any one week or more than eight hours in any one calendar day.

SECTION 2. Only a case of danger to property, to life, to public safety or to public health shall be considered a case of emergency within the meaning of this act, except in case of employment for the repair, renewal, adjustment or care of machinery or appliances in order to maintain the same in continuous operation, and except in case of employment of a tour-worker in substitution for and in the temporary absence of another.

For the purposes of this act the expression "tour-workers" shall mean all employees who tend or are employed for the purpose of tending machinery or appliances of any description which are operated both day and night, either continuously or intermittently, and shall be deemed to include machine tenders and their helpers, engineers and their helpers, calender tenders and their helpers, cutter tenders and all other persons whose attendance is required in consequence of the continuity of operation of such machinery or appliances.

These three bills refer to entirely distinct occupations, and vary in the degree of regulation to which they would subject the employment of labor in these occupations. The bills must therefore be considered each upon its own special provisions and upon its own individual merits.

There are, however, certain general principles of law which are applicable to the entire class of legislation to which these three bills belong, and these general principles may well be briefly stated as a basis for the consideration of the particular bills.

Whether such legislation is unconstitutional or not depends on whether it unwarrantably deprives those who are subject to it of their liberty. The liberty of the individual is guaranteed both by the State and Federal constitutions, and it has been held that the right to make contracts is embraced in the conception of liberty as guaranteed by the Constitution. *Allgeyer v. Louisiana*, 165 U. S. 578; *Lochner v. New York*, 198 U. S. 45; *Adair v. United States*, 208 U. S. 161; *Chicago, Burlington & Quincy R. R. Co. v. McGuire*, 219 U. S. 549, 566. In the case of *Allgeyer v. Louisiana*, 165 U. S. 578, 589, the court said, in referring to the Fourteenth Amendment of the Constitution of the United States:—

The liberty mentioned in that amendment means not only the right of the citizen to be free from the mere physical restraint of his

person, as by incarceration, but the term is deemed to embrace the right of the citizen to be free in the enjoyment of all his faculties; to be free to use them in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation, and for that purpose to enter into all contracts which may be proper, necessary and essential to his carrying out to a successful conclusion the purposes above mentioned.

The right to contract is not, however, an absolute right. It is held subject to certain powers inherent in the sovereignty of each State and of the United States, which are known as the "police powers." The police powers are not easily described, and specific limitations of them have not been attempted by the courts. They are somewhat elastic in their nature, and they grow and vary with public opinion. For present purposes, however, it is sufficient to describe them as the powers which the sovereignty may exercise in relation to the safety, health, morals and general welfare of the public.

In the exercise of those powers the State may subject the property and the liberty of the individual to reasonable conditions without violating the provisions of the Fourteenth Amendment of the Constitution.

The question as to the constitutionality of the bills presented, therefore, resolves itself into the question whether the bills, if enacted into law, would constitute a reasonable exercise of the police power by the governing power of the State. The question was thus expressed by the United States Supreme Court in the case of *Adair v. United States*, 208 U. S. 161, 173: —

In every case that comes before this court, therefore, where legislation of this character is concerned and where the protection of the Federal Constitution is sought, the question necessarily arises: Is this a fair, reasonable and appropriate exercise of the police power of the State, or is it an unreasonable, unnecessary and arbitrary interference with the right of the individual to his personal liberty or to enter into those contracts in relation to labor which may seem to him appropriate or necessary for the support of himself and his family?

Having thus indicated as a guide to the committee the fundamental question involved in determining whether the proposed legislation would be constitutional, it may be of further assistance if I indicate in what manner a few attempts of the exercise of this police power, in the matter of regulating the hours of

labor, have been judged by the Supreme Courts of this Commonwealth and of the United States.

The statutes regulating the hours of labor of employees of the Federal, State and municipal governments and of persons employed by persons contracting with these governments upon public work have been held to constitute a class entirely distinct from the statutes regulating the hours of labor of employees of private corporations and individuals, and have been sustained by a divided court as a lawful exercise of the right of the sovereign to prescribe the conditions under which it will permit work of a public character to be done. *Atkin v. Kansas*, 191 U. S. 207, 223.

Legislation limiting the hours of labor for women and children, while its constitutionality as applied to women has been doubted in some States, has been upheld generally and in this Commonwealth as a matter of health regulation. *Commonwealth v. Hamilton Mfg. Co.*, 120 Mass. 383; *Opinion of the Justices*, 163 Mass. 589, 594; *Commonwealth v. Riley*, 210 Mass. 387.

In the case of *Holden v. Hardy*, 169 U. S. 366, the question of regulating the hours of labor for men was raised, and the Supreme Court of the United States, with two justices dissenting, sustained as a valid exercise of the police power a statute of the State of Utah entitled "An Act regulating the hours of employment in underground mines and in smelters and ore reduction works," which limited to eight hours per day the period of employment in all underground mines and in smelters and all other institutions for the reduction or refinement of ores or metals, except in case of emergency where life or property was in imminent danger. It was pointed out in that case that the men worked in an atmosphere of poisonous gases, dust and impalpable substances which in the judgment of the court tended to produce morbid, noxious and deadly effects in the human system. In the course of its opinion the court said: —

These employments, when too long pursued, the Legislature has judged to be detrimental to the health of the employees, and, so long as there are reasonable grounds for believing that this is so, its decision upon this subject cannot be reviewed by the Federal courts.

In the case of *Lochner v. New York*, 198 U. S. 45, the United States Supreme Court, with three justices dissenting, reversed the decision of the highest court of New York, and held uncon-

stitutional, as not within the limits of the police power, a statute of New York limiting to sixty hours in any one week the period of employment in a biscuit, bread or cake bakery or confectionery establishment, and containing no emergency clause. In this case the court referred to the above-mentioned case of *Holden v. Hardy* as one of the "border ones" in which the court had been "guided by rules of a very liberal nature." A careful reading of the entire opinion in this case would unquestionably be instructive to the committee, but particular attention should be called to the following quotations from the opinion:—

It is a question of which of two powers or rights shall prevail—the power of the State to legislate or the right of the individual to liberty of person and freedom of contract. The mere assertion that the subject relates though but in a remote degree to the public health does not necessarily render the enactment valid. The act must have a more direct relation, as a means to an end, and the end itself must be appropriate and legitimate, before an act can be held to be valid which interferes with the general right of an individual to be free in his person and in his power to contract in relation to his own labor.— Page 57.

We think the limit of the police power has been reached and passed in this case. There is, in our judgment, no reasonable foundation for holding this to be necessary or appropriate as a health law to safeguard the public health or the health of the individuals who are following the trade of a baker.— Page 58.

The act is not, within any fair meaning of the term, a health law, but is an illegal interference with the rights of individuals, both employers and employees, to make contracts regarding labor upon such terms as they may think best, or which they may agree upon with the other parties to such contracts.— Page 61.

Other decisions of the courts and of the various State courts might be cited, but perhaps enough have been referred to, to show the view taken by the majority of a divided court at the time when the questions were presented.

The question of the constitutionality of the legislation proposed cannot be adequately considered or discussed except upon presentation of the facts with reference to the occupation to which the proposed legislation is to apply. It is for the Legislature, in the first instance, to say upon the facts and considerations presented to it whether in its judgment there is "fair and reasonable ground, in and of itself, to say that there is material danger to the public health or to the health of the employees"

if the hours of labor are not curtailed in the occupations to which these bills refer.

I assume that evidence and arguments have been submitted or will be submitted to the committee, bearing upon the relation which exists between these various occupations and the health of those employed in them. No such evidence or arguments are before me, and I, therefore, am unable to determine finally the character of the employment in these occupations as shown by any particular evidence that may have been or may be submitted to the committee.

It is to be noted, however, with reference to Senate Bill No. 145, limiting the hours of employment of employees of express companies, that it purports to limit the hours of employment of "all employees" in the express business. It would thereby place a person doing light office work, with long intervals of comparative leisure, or the person merely exercising the functions of supervisor of teaming, employed in the open air, upon the same basis with the man doing heavy manual labor and one exposed to long hours out-of-doors in bad weather.

It is to be noted, also, with reference to House Bill No. 47, limiting the hours of labor of registered pharmacists, assistant pharmacists, clerks, apprentices "or other employee" in any pharmacy, drug store or apothecary shop, to sixty-five hours in any one week, that it applies equally to the pharmacist constantly engaged in preparing prescriptions and to the clerk whose only duty is to tend the counter at which confections and cigars are sold.

With reference to these bills, and as well to House Bill No. 1081, limiting to eight hours per day the period of employment in any paper mill, foundry, factory or any manufacturing or mechanical or other industrial establishment, as therein provided, the committee will have before it sufficient information to enable it to determine the question under the principles hereinbefore set forth, applying in addition to common knowledge of the facts in reference to such business such particular evidence or facts as have been, or may be submitted to the committee for the purpose of enlightening it as to the necessity for such legislation, or as indicating that there is danger to health and welfare in these various occupations, within the limits hereinbefore set forth.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Constitutional Law — Sale of Fruit, Vegetables and Nuts at Retail by Dry Measure — Legal Weight.

The provision of R. L., c. 57, § 21, as amended by St. 1912, c. 246, that "all fruits, vegetables and nuts, . . . shall be sold at retail by dry measure, weight or by numerical count, and all fruits and vegetables for which a legal weight has been established shall be sold at retail only by weight or numerical count," may constitutionally be amended so as to provide that "all fruits, vegetables and nuts for which a legal weight has been established shall be sold at retail only by dry measure, weight or numerical count, but not less than the legal weight shall be given when the same are sold by dry measure."

If such proposed amendment was enacted, a purchaser buying by dry measure would be entitled to receive the established legal weight of the commodity purchased so far as a specific weight per unit of dry measure was established by law therefor, and the dealer would be required to ascertain that the weight for such commodity as measured did not fall below the weight required by law in the case of the unit of dry measure employed in such sale.

MARCH 5, 1913.

JOHN H. STONE, Esq., *Committee on Mercantile Affairs.*

DEAR SIR: — On behalf of the committee on mercantile affairs you have submitted for my consideration certain questions relating to the effect of a proposed amendment of R. L., c. 57, § 21, as amended by St. 1912, c. 246. This section is as follows: —

All fruits, vegetables and nuts, except as hereinafter otherwise provided, shall be sold at retail by dry measure, weight or by numerical count, and all fruits and vegetables for which a legal weight has been established shall be sold at retail only by weight or numerical count. Whoever violates any provision of this section shall forfeit a sum not exceeding ten dollars for each offence.

The proposed bill, if enacted, will amend the above section so as to provide that —

All fruits, vegetables and nuts for which a legal weight has been established shall be sold at retail only by dry measure, weight or numerical count, but not less than the legal weight shall be given when the same are sold by dry measure. Whoever violates any provision of this section shall forfeit a sum not exceeding ten dollars for each offence.

The effect of this amendment will be to permit sales by dry measure provided that the commodity sold therein equals the

weight required by law for such dry measure. See R. L., c. 62, § 3, as amended by St. 1902, c. 115, and St. 1911, c. 397; § 4, as amended by St. 1910, c. 297, and St. 1912, c. 284, and § 5.

To the specific inquiries submitted by the committee, I reply as follows:—

First.—Would the proposed amendment be constitutional?

Upon the assumption that the original limitation imposed in the statute to which the proposed amendment is applicable was a reasonable and proper one under the circumstances, I am of opinion that said amendment would not be objectionable upon any constitutional ground. It goes no further than to require that if a dealer in fruits, nuts or vegetables undertakes to sell them, or any of them, by dry measure, he must see to it that the commodity measured does not weigh less than the weight established by law therefor.

Second.—Would the purchaser be entitled to the established legal weight of such fruit, nuts and vegetables, when the same were bought and sold by dry measure, if the proposed amendment became law?

So far as a specific weight per unit of dry measure was established by law, the purchaser would be entitled to receive it if he bought by dry measure.

Third.—If the proposed amendment became law, and if it is true that the established legal weights of certain fruits, nuts and vegetables are sometimes more than the actual weights of the same when correctly measured, will the law establishing the legal weight of such fruits, nuts and vegetables govern the sale at retail of the same?

In the case stated the weight of the commodity contained in the unit of dry measure must be equal to the established legal weight for such commodity as measured, and the dealer is required at his peril to ascertain that such weight does not fall below the weight required by law in the case of the unit of dry measure employed in the sale.

Fourth.—If the seller gave less than the legal weight, when he sold by dry measure fruits, nuts and vegetables for which a legal weight has been established, would the Commonwealth have difficulty in obtaining a conviction under the proposed amendment if it became law?

If there was sufficient evidence of such sale I see no reason why, as matter of law, there should be difficulty in obtaining a conviction.

Very truly yours,

JAMES M. SWIFT, *Attorney-General*.

Insurance Company — Massachusetts Employees Insurance Association — Indebtedness for Outstanding Losses — Determination.

The Massachusetts Employees Insurance Association, incorporated under the provisions of St. 1911, c. 751, Part IV., is not subject to St. 1907, c. 576, § 11, as amended by St. 1911, cc. 54, 315, which, in providing for the determination of indebtedness for outstanding losses, requires an arbitrary charge to be made against any corporation writing policies covering insurance against loss or damage resulting from accident to or injury suffered by an employee or other person for which the insured is liable, and against loss from liability on account of the death of or injury to an employee not caused by the negligence of the employer, to be computed as therein provided.

MARCH 7, 1913.

Hon. FRANK H. HARDISON, *Insurance Commissioner*.

DEAR SIR: — You have inquired with reference to the application to the Massachusetts Employees Insurance Association of so much of St. 1907, c. 576, § 11, as amended by St. 1911, cc. 54 and 315, as provides that —

The indebtedness for outstanding losses under insurance against loss or damage resulting from accident to or injuries suffered by an employee or other person, for which the insured is liable, and under insurance against loss from liability on account of the death of or injury to an employee not caused by the negligence of the employer, shall be determined

according to the method therein prescribed, which in substance requires an arbitrary charge to any corporation writing policies covering any of the kinds of insurance above described of indebtedness for outstanding losses upon such policies, to be determined as follows: —

(10) for all suits being defended under policies written more than ten years prior to the date as of which the statement is made, except suits in which liability is not dependent upon negligence of the insured, one thousand dollars for each suit; (11) for all suits being

defended under policies written more than five years and less than ten years prior to the date as of which the statement is made, except suits in which liability is not dependent upon negligence of the insured, seven hundred and fifty dollars for each suit; (12) for all deaths for which the insured are liable without proof of negligence, covered by policies written more than five years prior to the date as of which the statement is made, the amount necessary to pay for such deaths; (13) for all unpaid claims on account of non-fatal injuries for which the insured are liable without proof of negligence under policies written more than five years prior to the date as of which the statement is made, the present value of the estimated future payments; (14) for the policies written in the five years immediately preceding the date as of which the statement is made an amount determined as follows: multiply the earned premiums of each of such five years as shown in item (1) by the loss ratio ascertained as in item (6) on all the policies written in the first five years of the said ten-year period, using as the divisor the sum of the earned premiums shown in item (1) for said first five years, and as the dividend the sum of the payments shown in item (2) for said first five years plus the sum of the charges in items (3), (4) and (5) for said first five years; but the ratio to be used shall in no event be less than fifty per cent at and after December thirty-first, nineteen hundred and eleven, nor less than fifty-one per cent at and after December thirty-first, nineteen hundred and twelve, nor less than fifty-two per cent at and after December thirty-first, nineteen hundred and thirteen, nor less than fifty-three per cent at and after December thirty-first, nineteen hundred and fourteen, nor less than fifty-four per cent at and after December thirty-first, nineteen hundred and fifteen, nor less than fifty-five per cent at and after December thirty-first, nineteen hundred and sixteen; and from the amount so ascertained in each of the last five years of said ten-year period deduct all payments made under policies written in the corresponding year as shown in item (2), and the remainder in the case of each year shall be deemed the indebtedness for that year: *provided, however*, that if the remainder in the case of any year of the first three years of the five years immediately preceding the date as of which the statement is made shall be less than the sum of the three following items for that year at that date, — (a) the number of suits, except suits in which liability is not dependent upon negligence of the insured, being defended under policies written in that year, and a charge of seven hundred and fifty dollars for each suit; (b) the amount necessary to pay for all deaths for which the insured are liable without proof of negligence, covered by policies written in that year; and (c) the present value of estimated unpaid claims on account of non-fatal injuries for which the insured are liable without proof of negligence, covered by policies written in that year, — then

the sum of said items (a), (b) and (c) shall be the indebtedness for that year.

The Massachusetts Employees Insurance Association is a mutual company organized under the provisions of St. 1911, c. 751, Part IV., for the purpose of insuring to employees of persons who become members of the corporation or subscribers such compensation as is provided by the various sections of Part II. of said act.

By section 23 of Part IV., it is provided that —

The provisions of chapter five hundred and seventy-six of the acts of the year nineteen hundred and seven and of acts in amendment thereof shall apply to the association, so far as such provisions are pertinent and not in conflict with the provisions of this act, except that the corporate powers shall not expire because of failure to issue policies or make insurance.

From a consideration of the provisions of St. 1911, c. 751, which relate to the organization of the Massachusetts Employees Insurance Association and prescribe the extent of its liability and the manner in which its business is to be conducted, it appears that the company is confined to the so-called workmen's compensation insurance established by said chapter, — with the unimportant exception of its liability in cases of such employees as may decline to accept the provisions thereof, — and its subscribers are limited to employers "in the Commonwealth." Its maximum liability upon any particular policy is fixed by the statute itself and claims against it are promptly heard and determined as they arise. In respect of these characteristics the company is to be readily distinguished from other companies which may engage in the business of insuring against loss or damage resulting from accident to or injuries suffered by an employee or other person, for which the insured is liable, or against loss from liability on account of the death of or injury to an employee not caused by the negligence of an employer, in connection with other forms of insurance and in many States, to which companies the provisions of St. 1907, c. 576, § 11, are made applicable.

A further and more important distinction, which in my opinion is decisive of the present question, is that the directors of the Massachusetts Employees Insurance Association are required to distribute its subscribers into groups in accordance with the

nature of the business and the degree of the risk of injury, and to fix all premiums, assessments and dividends by and for such groups according to the experience of each group. By section 17 of Part IV. it is provided that any proposed premium, assessment, dividend or distribution into groups shall not be effective until approved by the Insurance Commissioner. The obvious purpose of these provisions was to furnish adequate insurance to the employee at the least possible cost to the subscriber, and the division into groups was required in order that the actual cost of such insurance in any group might be readily ascertained and established and the surplus remaining in the hands of the company might be seasonably returned to those by whom it had been contributed, in the proportions fixed by the experience of the especial group in which each subscriber was enrolled. In view of this purpose, a determination of the indebtedness of the company for outstanding losses according to the provisions of St. 1907, c. 576, § 11, in its amended form, which would impose upon the company an arbitrary charge against each policy, without reference to the group in which it was placed, would not only be not pertinent to the group system but in conflict therewith.

In reply to your specific question, therefore, I have to advise you that in my opinion the Massachusetts Employees Insurance Association does not come under the provisions of St. 1907, c. 576, § 11, as amended by St. 1911, cc. 54 and 315.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Boston Elevated Railway Company — East Boston Tunnel — Tolls — Security for Bonds of City of Boston — Substitution of Annual Appropriation — Impairment of Obligation of Contract — Constitutional Law.

A proposed bill providing that "the city of Boston is hereby authorized to appropriate from the tax levy each year . . . the sum of one hundred and twenty-five thousand dollars to be added to the rental received from the Boston Elevated Railway Company for the lease of the East Boston tunnel, the sum total of which shall be used to provide for the payment of the interest and sinking fund requirements of the bonds issued for the construction of the East Boston tunnel," in so far as it requires that such appropriation shall be used for a purpose which amounts to an indirect abolition of such tolls in a manner not necessarily in accordance with the

provisions of St. 1897, c. 500, § 17, that the city of Boston shall collect from each person passing through such tunnel in either direction a toll of one cent, to be used with other funds to meet the interest and sinking fund requirements of bonds issued by the city of Boston to defray the cost of constructing such tunnel unless such tolls are abolished or diminished by the Board of Railroad Commissioners in the manner and for the reasons set forth in said section, if enacted would be unconstitutional and void as impairing the obligation of the contract created by such section.

MARCH 12, 1913.

HON. GRAFTON D. CUSHING, *Speaker, House of Representatives.*

DEAR SIR: — I have the honor to transmit herewith my opinion submitted in accordance with the order of the Honorable House of Representatives, as follows: —

Ordered, That the Attorney-General be requested to inform the House of Representatives whether, in his opinion, the provisions of House Bill No. 1961, being An Act to authorize the city of Boston to assume the payment of the tolls for the use of the East Boston tunnel, a copy of which is sent herewith, would, if enacted, violate any provision of the Constitution of the United States or of the Constitution of the Commonwealth.

House Bill No. 1961, referred to in said order, is entitled “An Act to authorize the city of Boston to assume the payment of the tolls for the use of the East Boston tunnel,” and provides as follows: —

SECTION 1. The city of Boston is hereby authorized to appropriate from the tax levy each year, until the tenth day of June, nineteen hundred and twenty-two, the sum of one hundred and twenty-five thousand dollars to be added to the rental received from the Boston Elevated Railway Company for the lease of the East Boston tunnel, the sum total of which shall be used to provide for the payment of the interest and sinking fund requirements of the bonds issued for the construction of the East Boston tunnel. Said appropriation may be initiated by either the mayor or city council.

SECTION 2. This act shall take effect upon its passage.

While the inquiry of the Honorable House of Representatives is very broad in its terms, I assume that it is directed toward the effect of such bill, if enacted, upon the provisions of St. 1897, c. 500, § 17, of which the material part 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.

In discussing an amendment to this section which abolished such tolls and instead thereof required the city of Boston to set aside from the compensation received by it from the Boston Elevated Railway Company under section 10 of the same chapter a toll of one cent for each person passing through said tunnel in either direction, the then Attorney-General, in an opinion to the committee on metropolitan affairs (II. Op. Atty.-Gen-505) said:—

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.

Again, in discussing the question whether or not it is within the constitutional power of the Legislature to abolish the tolls provided for in said section, the Supreme Judicial Court, in an opinion to the Honorable Senate and House of Representatives (Opinion of the Justices, 190 Mass. 605, 608), said: —

Section 10 of Article I. of the Constitution of the United States contains this provision: "No state shall . . . pass any . . . *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility," etc. Upon each of the bonds referred to, issued by the city of Boston in accordance with the provisions of the St. of 1897, c. 500, are stamped the following words: "East Boston Tunnel. The whole amount of the rentals for the use of and tolls for persons passing through the East Boston tunnel is pledged for the payment of the principal and interest of this loan." This statement, which was thus made a part of the contract on the faith of which pur-

chasers have bought the bonds, was authorized and required by the statute. The fact that lies behind the statement, namely, that the rentals and tolls are actually set apart and pledged as security for this payment, is also a requirement of the statute. We have, therefore, a contract which rests not only upon the agreement of the city, made for a valuable consideration, but upon the deliberate action and solemnly pledged faith of the Commonwealth. The tolls referred to are the tolls then established by law and they cannot be diminished without reducing the security to which the owners of the bonds are entitled. It is plain that the sale of bonds, carrying on their face this stipulation, creates a contract with each purchaser which it is not in the power of the Legislature to impair.

It appears to be well established, therefore, that any legislation which affects or impairs the security afforded by the collection of the tolls as above required to the holders of bonds to meet the principal and interest for which such tolls are pledged would clearly be unconstitutional, and this would be true notwithstanding the fact that some other form of security was substituted therefor. *Seibert v. Lewis*, 122 U. S. 284, 290; *Nelson v. St. Martin's Parish*, 111 U. S. 716; *Louisiana v. Pillsbury*, 105 U. S. 278, 287, 288.

So far as the proposed bill purports to substitute for the security afforded by the collection of the tolls from persons passing through the East Boston tunnel another and different form of security to be paid by the city of Boston from its general revenue as raised by taxation, and to abolish such tolls, it would, in my opinion, be unconstitutional as impairing the obligation of the contract. While the bill is entitled "An Act to authorize the city of Boston to assume the payment of the tolls for the use of the East Boston tunnel," the bill itself, however, does not in terms confer any such authorization. The first part of the bill goes no further than to permit the city of Boston to appropriate annually the sum mentioned therein, "to be added to the rental received from the Boston Elevated Railway Company for the lease of the East Boston tunnel." It does not abolish the tolls themselves or affect them except only and in so far as they may be reduced or discontinued by the Board of Railroad Commissioners under the provisions of the section quoted upon the basis of a rental which includes the amount actually paid in by the Boston Elevated Railway Company, amounting to three-eighths of 1 per cent. of the gross receipts for each year ending September 30 of all lines owned, leased or operated by it, plus the

amount appropriated by the city of Boston under the provisions of the proposed bill, if added thereto.

Whether or not such appropriation may be properly added to the actual rental as a basis for a reduction or discontinuance of the tolls, it is not necessary to decide, for, if such appropriation may not legally be added to or considered a part of the rental for such purpose, the tolls will not in any wise be affected by the enactment of said first portion of the proposed bill.

As to the second portion of the bill, providing that "the sum total of which shall be used to provide for the payment of the interest and sinking fund requirements of the bonds issued for the construction of the East Boston tunnel," there seems to be constitutional objection in that it requires that the appropriation provided by said act "shall be used" in such a way as to amount to an indirect abolition of the tolls in a manner not necessarily in accordance with the provision of the original statute hereinbefore quoted, St. 1897, c. 500, § 17.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Insurance — Life and Disability Insurance — Separate and Distinct Policies — Benefits conditioned upon Disability — Waiver of Premiums — Special Surrender Values.

Under the provisions of St. 1907, c. 576, § 34, as amended by St. 1912, c. 524, § 1, that "contracts of insurance for each of the classes specified in section thirty-two shall be in separate and distinct policies . . . except that . . . any foreign life insurance company authorized to transact business in this commonwealth . . . may incorporate in its policies of insurance provisions for the waiver of premiums or for the granting of special surrender values therefor in the event that the insured thereunder shall from any cause become totally and permanently disabled, . . ." a foreign life insurance company authorized to do business in this Commonwealth may incorporate in its policies a provision that in case the insured becomes wholly disabled by bodily injury or disease so as to be permanently and continuously prevented from engaging in any occupation for remuneration or profit after he has attained the age of sixty years, the company "shall waive payment of each premium thereafter becoming due during such disability, but the face amount of the policy shall be reduced by the amount of each such waived premium, . . ." the deduction so made being the amount of the premium on insurance not presently payable of which the value is at all times less than the amount of the premium in cash, and to the extent of such difference constituting a voluntary relinquishment of premium upon the part of such company.

MARCH 12, 1913.

HON. FRANK H. HARDISON, *Insurance Commissioner*.

DEAR SIR:—By a letter dated February 10 you have submitted for my consideration certain questions relative to a form of policy presented for your approval by the New York Life Insurance Company.

By St. 1907, c. 576, § 34, it was provided that “contracts of insurance for each of the classes specified in section thirty-two, shall be in separate and distinct policies, notwithstanding any provision of this act which permits a company to transact more than one of said classes of insurance,” and this provision, in *Ætna Life Insurance Co. v. Hardison*, 199 Mass. 180, was held to forbid the offer in a policy of life insurance of any special or peculiar benefit in case of impairment of the health of the insured by bodily injury or disease, such as to prevent the insured for the rest of his life from pursuing any gainful occupation.

By St. 1912, c. 524, entitled “An Act relative to lapse and surrender values in policies of insurance,” in section 1 the section above quoted was amended so as to read as follows:—

Contracts of insurance for each of the classes specified in section thirty-two shall be in separate and distinct policies notwithstanding any provision of this act which permits a company to transact more than one of said classes of insurance; except that any domestic life insurance company, notwithstanding any limitations of its charter to the contrary, and any foreign life insurance company authorized to transact business in this commonwealth, if it is permitted so to do by its charter or by the state in which it is incorporated, whether or not it has a capital stock, may incorporate in its policies of insurance provisions for the waiver of premiums or for the granting of special surrender values therefor in the event that the insured thereunder shall from any cause become totally and permanently disabled, which provisions shall state the special benefits to be granted thereunder and the cost of such concessions to the insured, and shall define in such policies what shall constitute total and permanent disability.

Under authority of the amended section the New York Life Insurance Company has submitted for approval a policy which, under the title “A. Waiver of Premiums,” provides as follows:—

If, after this policy shall have been in force one full year, and before default in the payment of any premium, the company receives due proof that the insured before attaining the age of sixty years

has become wholly disabled by bodily injury or disease so that he is and will be presumably, thereby permanently and continuously prevented from engaging in any occupation whatsoever for remuneration or profit, the company shall waive payment of each premium as it thereafter becomes due during the insured's said disability. In making any settlement under this policy the company shall not deduct any part of the premiums so waived, and the loan and cash surrender values provided for under section 2 shall increase from year to year in the same manner as if the premiums so waived had been paid in cash. Under all the conditions aforesaid, except that the insured shall have attained the age of sixty years before becoming disabled, the Company shall waive payment of each premium thereafter becoming due during such disability, but the face amount of the policy shall be reduced by the amount of each such waived premium, and the loan and cash surrender values as provided for under section 2 shall be based upon said reduced amount of insurance in the same manner as if the premiums for such reduced amount of insurance had been duly paid.

Upon so much of the paragraph above quoted as provides that in case the insured becomes wholly disabled by bodily injury or disease so as to be permanently and continuously prevented from engaging in any occupation for remuneration or profit after he has attained the age of sixty years, "the company shall waive payment of each premium thereafter becoming due during such disability, but the face amount of the policy shall be reduced by the amount of each such waived premium, . . ." you require my opinion as to whether or not "it is actually a waiver of a premium when the company immediately reduces the amount of the insurance by the so-called waived premium," and, also, "whether the statute permits a change in the policy by a reduction from the amount of insurance upon the happening of the contingency in question, viz., total and permanent disability."

The amendment effected by St. 1912, c. 524, § 1, was not intended, in my opinion, to permit any general combination of life and disability insurance in a single policy, but is limited to and includes within its terms only benefits conditioned upon disability conferred by waiver of premiums or by special surrender values.

It is well settled that a waiver is an intentional relinquishment of a known right (*Shaw v. Spencer*, 100 Mass. 382, 395; *Worcester v. Platt*, 128 Mass. 367, 372; *United Firemen's Insurance Co. v. Thomas*, 82 Fed. Rep., 406, 408); and the waiver

of a premium, to fall within the terms of the statute, must be a voluntary relinquishment of such premium either in whole or in part. If the effect of the provision in the policy now before me were merely to relieve the insured from the burden of paying his annual premium and to charge the full amount thereof against him by making a corresponding reduction in the obligation of the company as set forth in the policy contract, the transaction might well be held to fall short of a waiver of premium, since the company would still be receiving from another source the full amount of the premium, and so would relinquish nothing. It is to be observed, however, that the deduction from the face of the policy is not a deduction of the amount of the premium in money but in insurance not presently payable, the value of which is at all times less than the amount of the premium, and to the extent of such difference, therefore, there is a voluntary relinquishment of premium upon the part of the company, or, in other words, a partial waiver of premium which in my opinion satisfies the requirements of St. 1907, c. 576, § 34, as amended by St. 1912, c. 524, § 1.

With respect to the reduction of the face of the policy, I am further of opinion that said amendment does not, in the precise terms of your second inquiry and as an independent proposition, "permit a change in the policy by a reduction from the amount of insurance upon the happening of the contingency in question, viz., total and permanent disability." In the particular case under consideration, however, such reduction must be taken in connection with the partial waiver of premium and, in my opinion, may fairly be said to be incidental thereto (see *Metropolitan Life Insurance Co. v. Insurance Commissioner*, 208 Mass. 386), and, therefore, permitted by the statute.

Very truly yours,

JAMES M. SWIFT, *Attorney-General*.

Constitutional Law — Legislature — Delegation of Legislative Power — Act creating Judicial District — Submission to Voters of District — Right to require Opinion of Justices of Supreme Judicial Court — Important Question of Law.

The Legislature may constitutionally enact a statute providing that the county of Nantucket shall constitute a judicial district under the jurisdiction of a court to be called the district court of Nantucket and that the act "shall be submitted to the voters of the county

of Nantucket at the annual state election in the current year, and if accepted by a majority of the voters voting thereon it shall take effect immediately so far as the appointment and qualifying of the justices of the court are concerned, and for the remainder of the act it shall take effect on the first day of January in the year nineteen hundred and fourteen.”

It is doubtful if an inquiry as to the power of the Legislature to enact a statute which shall take effect upon acceptance by a majority of the voters in such district voting thereon presents such an important question of law as could authorize a request for an opinion of the justices of the Supreme Judicial Court.

MARCH 29, 1913.

GEORGE P. DRURY, Esq., *Chairman, House Committee on Bills in the Third Reading.*

DEAR SIR: — In response to your inquiry made in behalf of the committee on bills in the third reading as to whether or not section 5 of House Bill No. 2159, now pending, a copy of which you inclosed, is constitutional; and also “whether or not the constitutionality of said section is so doubtful as to require in your judgment an opinion of the justices of the Supreme Judicial Court before the bill containing that section shall be enacted into law,” I have the honor to submit herewith my opinion.

The bill to which said question refers is entitled “An Act to establish the district court of Nantucket,” and provides in section 1 that —

The county of Nantucket shall constitute a judicial district, under the jurisdiction of a court to be called the District Court of Nantucket.

Section 5 is as follows: —

This act shall be submitted to the voters of the county of Nantucket at the annual state election in the current year, and if accepted by a majority of the voters voting thereon it shall take effect immediately so far as the appointment and qualifying of the justices of the court are concerned, and for the remainder of the act it shall take effect on the first day of January in the year nineteen hundred and fourteen.

The precise nature of the constitutional question upon which the committee desires to be advised is not stated, but I assume that it relates to the power of the Legislature to make the act

effective upon acceptance by a majority of the voters of the county of Nantucket.

The right of the Legislature to delegate some of its legislative functions to agencies of the State or to municipalities is well established. Thus, it may delegate to State or local administrative boards or officers the working out of details under a legislative act (*Commonwealth v. Sisson*, 189 Mass. 247, 252; *Nelson v. State Board of Health*, 186 Mass. 330; *Sprague v. Dorr*, 185 Mass. 10), and this extends to authority given to State or local boards or officers to make rules and regulations which are punishable like breaches of the peace (*Brodbine v. Revere*, 182 Mass. 598), subject to the condition that such rules and regulations shall not change a general law effective throughout the Commonwealth. See *Wyeth v. Cambridge Board of Health*, 200 Mass. 474, 481.

With respect to the delegation of legislative powers to be exercised in accepting legislation passed by the General Court and to become effective upon acceptance, it is well settled that while the power to accept a general law by a vote of all the people may not be delegated, laws relating to cities and towns which are local in their nature, so that they may be differently dealt with in different places, may be made to take effect upon acceptance by the voters in the municipalities to which they are applicable. Opinion of the Justices, 160 Mass. 587. Thus, it is stated in *Brodbine v. Revere, supra*, p. 600, that there is a well-known exception to the rule that the Legislature may not delegate the general power to make laws, "namely, the existence of town or other local governmental organizations which have always been accustomed to exercise self-government in regard to local police regulations and other matters affecting peculiarly the interests of their own inhabitants. On this account the determination of matters of this kind has been held to be a proper exercise of local self-government which the Legislature may commit to a city or town." And the court cites *Commonwealth v. Bennett*, 108 Mass. 27; *Stone v. Charlestown*, 114 Mass. 214; and the Opinion of the Justices, 160 Mass. 586, 589.

The only question presented by the inquiry of the committee, therefore, is whether or not the rule so established extends to and includes the establishment of a judicial district by the acceptance by the people thereof of the act constituting it.

I can see no reasonable distinction in principle between the acceptance by the voters of a city or town of a statute which

deals with the local affairs of that city or town and the acceptance by the voters of any other governmental subdivision of a question which deals with the local affairs of such subdivision, whether it be a county, a water or fire district or a judicial district. Thus, it has been held that a provision in a statute relating to the incorporation of irrigation districts, that the question whether any proposed district shall be organized thereunder may be determined by vote of the citizens of such district, is not a delegation of legislative power. *Fallbrook Irrigation District v. Bradley*, 164 U. S. 112. So, also, of the approval of an act changing the boundaries of two adjoining counties by a two-thirds vote of the voters in the territory affected. *Jackson v. State*, 131 Ala. 21. See, as to counties, *People v. Saline*, 176 Ill. 165; *Ex parte Burnside*, 86 Ky. 423; *Black v. Commissioners of Buncombe County*, 129 N. C. 121; *Ems v. Hudson*, 36 Mont. 135.

The fact that the governmental unit to be constituted is a judicial district does not, in my opinion, affect the question adversely. The constitutional provision that "the general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, . . ." (Part the Second, c. 1, § 1, Art. III.), may be exercised in the same manner as its authority "from time to time to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, . . . as they shall judge to be for the good and welfare of this commonwealth" (Art. IV.). See *Russell v. Howe*, 12 Gray, 147. While it is true that in practice the acceptance of statutes by popular vote has generally been limited to acts relating to matters of local regulation affecting peculiarly the interests of the inhabitants of cities and towns, such practice does not affect the principle. There is no reason why the same authority may not be conferred upon local governmental organizations other than cities and towns. See language in *Brodvine v. Revere, supra*, p. 600. In *Rutter v. Sullivan*, 25 W. Va. 427, it was held that an act constituting a municipal court for the city of Huntington should be submitted to the voters of said city, and, if accepted by a majority of them, should be effectual, and if not so accepted, should be of no effect, was constitutional; and I see no reason why the same result should not be reached where the question is submitted to the voters of a county instead of a city or town.

With respect to the second question submitted by the committee, it may be doubted whether the present inquiry is of the kind upon which the court is required to express an opinion. See Opinion of the Justices, 211 Mass. 630; 208 Mass. 614; 150 Mass. 598; 148 Mass. 623; and 122 Mass. 600. But whether or not it is to be treated as such an important question of law, I do not think that it may properly be said to be so doubtful as to require such an opinion.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Street Railways — Authority to become Common Carriers of Express Matter and Freight — Regulations and Restrictions — Board of Railroad Commissioners — Approval.

Where, under the provisions of St. 1907, c. 402, § 1, that a street railway company may become a common carrier of newspapers, baggage, express matter and freight in such cases, upon such parts of its railway, and to such extent, in any city or town, as the board of aldermen or the selectmen in such city or town and the Board of Railroad Commissioners shall by order approve, and that if the board of aldermen or selectmen act adversely upon the petition of the company or fail to act within sixty days from the date of the filing thereof, the petitioner or interested party may present a petition to the Board of Railroad Commissioners, who, if public necessity and convenience require the granting of such petition, shall make an order requiring any street railway company named in such petition to act as such common carrier in such cases, upon such parts of its railway and to such extent and under such regulations and restrictions as in the opinion of said railroad commissioners public necessity and convenience require, the board of selectmen of a town had authorized a street railway to become a common carrier of newspapers, baggage, express matter and freight, and thereafter, before any action was taken by the street railway company to obtain the approval of the Board of Railroad Commissioners, duly revoked its order, such revocation does not constitute adverse action upon the petition which would authorize the Board of Railroad Commissioners to receive and act upon such petition. If, however, no further action was taken within sixty days of the date of the filing of the petition, the selectmen have failed to act within the meaning of the provision above cited and the Board of Railroad Commissioners would be authorized to entertain a petition by the street railway company or any other interested party, and, after public notice and a hearing, to determine whether or not public necessity and convenience required the granting thereof.

Where a board of selectmen in an order approving of a street railway becoming a common carrier of newspapers, baggage, express matter

and freight under the provisions of St. 1907, c. 402, includes therein illegal limitations or conditions, the Board of Railroad Commissioners may disregard such illegal limitations and conditions and may approve such matters contained in the order as the selectmen were authorized to include therein.

APRIL 14, 1913.

HON. FRED J. MACLEOD, *Chairman, Board of Railroad Commissioners.*

DEAR SIR:— You have submitted for my consideration certain general inquiries relative to the application of the provisions of St. 1907, c. 402, § 1. This section is as follows:—

A street railway company may become a common carrier of newspapers, baggage, express matter and freight in such cases, upon such parts of its railway, and to such extent, in any city or town, as, after public notice and a hearing, upon the petition of any interested party, the board of aldermen or the selectmen in such city or town and the board of railroad commissioners shall by order approve. If the board of aldermen or selectmen to whom such a petition is presented act adversely thereon or fail to act within sixty days from the date of the filing of such petition the petitioner or any interested party may file such petition with the board of railroad commissioners, who shall after public notice and a hearing determine whether public necessity and convenience require the granting of such petition and shall make an order dismissing such petition or requiring any street railway company named in such petition to act as such common carrier in such cases, upon such parts of its railway and to such extent, and under such regulations and restrictions, as in the opinion of said railroad commissioners public necessity and convenience require. Any street railway company acting under authority hereof shall be subject to such regulations and restrictions as may from time to time be made by the local authorities aforesaid, with the approval of the railroad commissioners, and shall also be subject to the provisions of all laws now or hereafter in force relating to common carriers so far as they shall be consistent herewith and with said regulations and restrictions. The authority conferred upon any street railway company by virtue of the provisions of this act may at any time be revoked or terminated in any city or town or upon any part of its railway, by the board of aldermen or selectmen with the approval of the board of railroad commissioners.

You inquire:—

(1) Assuming that the board of selectmen have by an order after notice and hearing authorized a street railway company to become a common carrier of newspapers, baggage, express matter and freight in accordance with the provisions of chapter 402 of the Acts of 1907,

and that before any action is taken by the street railway company to obtain approval of the Board of Railroad Commissioners the board of selectmen revokes its order. Does this constitute an adverse action by the board of selectmen which authorizes the Board of Railroad Commissioners to act upon a petition of the street railway company to become a common carrier if public necessity and convenience require the granting of such petition in accordance with the provisions of said chapter?

Upon the assumption above stated, that the order of approval made by the selectmen was duly revoked by them, I am of opinion that such revocation is not to be regarded as adverse action upon the petition before them, but that if thereafter no further action was taken within sixty days of the date of the filing of said petition, the selectmen have failed to act within the meaning of the statute and the Board of Railroad Commissioners would be authorized to entertain a petition by the street railway company or any other interested party, and, after public notice and a hearing, to determine whether or not public necessity and convenience require the granting of such petition.

(2) Assuming that a board of selectmen in an order approving of a street railway company becoming a common carrier of newspapers, baggage, express matter and freight under the provisions of chapter 402 of the Acts of 1907 include in that order certain provisions which the Board of Railroad Commissioners deems improper or illegal, such as a twenty-year limitation or requiring the street railway company to light the streets of the town, can the Board of Railroad Commissioners approve of said order eliminating in its order such provisions as it deems improper or illegal?

I am of opinion that the statute above quoted does not authorize the selectmen of a town, in making an order approving the carrying on by a street railway company of the business of a common carrier of newspapers, baggage, express matter and freight, to impose therein either a limitation upon the duration of the franchise or conditions requiring the lighting of the streets or other similar services. The procedure of the Board, however, with respect to an order containing such provisions, which is presented for approval, raises a more difficult question. It might well be argued that since the approval of the selectmen is conditioned upon limitations and requirements which are illegal and, therefore, of no binding force and effect, the order as a whole should be treated as a nullity, and the moving party

should be required to petition the Board to make an order in the premises upon the ground that the selectmen had failed to act within the required period of time. Upon the other hand, it has been held that the acceptance of a grant of location by a street railway company does not make valid conditions which the selectmen could not legally impose. *Keefe v. Lexington & Boston Street Railway Co.*, 184 Mass. 183, 185. And the invalidity of such conditions does not render invalid the grant of the location. See *Keefe v. Lexington & Boston Street Railway Co.*, *supra*; *Selectmen of Wellesley v. Boston & Worcester Street Railway*, 188 Mass. 250. In the case suggested by your inquiry, therefore, there would seem to be authority for the conclusion that the imposition of illegal limitations or conditions would not render void so much of the order of the selectmen as purported to approve the operation of the street railway company as a common carrier, the cases in which, the parts of its railway upon which, and the extent to which it should so act. This in my opinion is the better view, and it would follow that the Board of Railroad Commissioners would be authorized to approve such matters contained in said order as the selectmen might legally include therein.

Very truly yours,

JAMES M. SWIFT, *Attorney-General*.

Flats — Cultivation of Food and Bait Mollusks — Grant from the Commonwealth to Private Individuals of Right to control Area between High and Low Water Mark — Eminent Domain — Constitutional Law.

A proposed bill to authorize the Commissioners on Fisheries and Game, acting in behalf of the Commonwealth, to grant a license for not more than fifteen years to any inhabitant of the Commonwealth to plant, grow and dig mollusks or to plant shells for the purpose of catching mollusk seed upon and in any territory below mean high water mark which contemplates not only the granting of the exclusive right to take shellfish for such period and to plant and grow mollusks and plant shells for the purpose of catching mollusk seed upon the area defined in such license, but also the entire exclusion of the owner, where such flats are subject to private ownership, from any use or occupation of such flats by inclosure or filling, cannot be justified as the imposition, under the police power, of a reasonable regulation, limitation or restraint in the use and enjoyment of property to prevent the same from being injurious to others, and constitutes so material an interference with existing

rights of property in such areas as to amount to an exercise of the power of eminent domain without due provision for compensating the owner of the property taken, and such bill, if enacted, would therefore be unconstitutional and void.

MAY 1, 1913.

BENJAMIN SHARP, M.D., *Chairman, House Committee on Fisheries and Game.*

DEAR SIR:— You have submitted to me on behalf of the committee on fisheries and game the following inquiry:—

May the Commonwealth constitutionally provide for leasing to private individuals the right to control the area between high and low water marks upon tidal flats, as provided in sections 2 and 5 of the proposed act relating to the cultivation of food and bait mollusks, which is submitted herewith?—

The sections to which you refer are as follows:—

SECTION 2. The commissioners on fisheries and game may, by writing under their hands, grant a license, for a term not exceeding fifteen years, to any inhabitant of the commonwealth to plant, grow and dig mollusks at all times of the year or to plant shells for the purpose of catching mollusk seed, upon and in any territory, as hereinafter specified and described, below mean high water mark, upon such terms and conditions as they may deem proper, not, however, materially obstructing navigable waters.

SECTION 5. The available territory for the growth and planting of mollusks shall be divided into two classes; the shallow waters near shore, including the flats, creeks, inlets and bays, which shall be allotted to the smaller planters; and the deep or more exposed waters, which shall be leased to individual planters, partnerships or corporations, who shall give suitable guarantee of sufficient capital to develop the same. Due regard for the public fisheries shall be given by the commissioners on fisheries and game in granting these licenses.

The question of the committee requires my opinion upon the constitutionality of the provision for the granting by the Commonwealth of licenses to individuals, for a fixed term of years, to cultivate mollusks upon flats below mean high water mark and above extreme low water mark.

By the colony ordinance of 1641-47 it was provided that every inhabitant who was a householder should have free fishing and fowling in any great ponds and bays, coves and rivers so far as the sea ebbs and flows, within the precincts of the town

in which they lived, unless the town had otherwise appropriated them, and that in all creeks, coves and other places upon tide-waters the proprietors of the upland adjoining should have property to the low water mark where the sea does not ebb above one hundred rods and no more whatsoever it ebbs, and, further, that such proprietors should not have power to stop or hinder the passage of boats or other vessels to any other man's houses or lands. See *Commonwealth v. Roxbury*, 9 Gray 451 (note).

The effect of the colony ordinance is stated in *Commonwealth v. Alger*, 7 Cush. 53, 79, to be —

That it vested the property of the flats in the owner of the upland in fee, in the nature of a grant; but that it was to be held subject to a general right of the public for navigation until built upon or inclosed, and subject also to the reservation that it should not be built upon or inclosed in such manner as to impede the public right of way over it for boats and vessels.

Again, in *Henry v. Newburyport*, 149 Mass. 582, 585, in speaking of the colony ordinance, the court said: —

This secured to such proprietor, not merely an easement, but a property in the land in fee, with full power to reclaim the flats by building wharves, or inclosing them, so as to exclude navigation, provided he did not cut off his neighbors' access to their houses or lands. He could erect wharves or other structures thereon, could fill up the same, and plant stakes thereon, even to the obstruction of the public right of fishing.

The proprietor of the upland, therefore, has a right of property in the adjacent flats between high and low water mark, — or between high water mark and a point one hundred rods distant therefrom where the sea ebbs more than one hundred rods, — of which he may be deprived only by the exercise of the power of eminent domain. See *Boston & Roxbury Mill Corporation v. Newman*, 12 Pick. 467; *Ashby v. Eastern Railroad Co.*, 5 Met. 368; *Drury v. Midland Railroad*, 127 Mass. 571. Subject to the provisions of R. L., c. 96, § 17 (1 Op. Atty.-Gen. 412), he may exclude navigation from his own flats by building wharves or other structures down to extreme low water mark or for one hundred rods as the case may be, if not prohibited from so doing by legislation, and if the structures so erected do not materially impede the general navigation of the tide-waters of the bay, cove or river upon which they are situated,

or cut off access to neighboring houses or lands (*Keene v. Stetson*, 5 Pick. 492, 495; *Davidson v. Boston & Maine Railroad*, 3 Cush. 91, 105; *Boston v. Richardson*, 105 Mass. 351, 359), or may interfere with the public right of fishing thereon by planting stakes. *Locke v. Motley*, 2 Gray, 265. As was stated by the court in *Butler v. Attorney-General*, 195 Mass. 79, 83 —

Except as against public rights, which are protected for the benefit of the people, the private ownership is made perfect.

And these public rights of fishing, fowling and boating may be exercised only so long as the flats are unused and uninclosed. See *Commonwealth v. Alger*, 7 Cush. 53, 79; *Weston v. Sampson*, 8 Cush. 347, 354; *Lakeman v. Burnham*, 7 Gray, 437, 441.

The bill submitted to me purports to authorize the Commissioners on Fisheries and Game, acting in behalf of the Commonwealth, to grant a license for not more than fifteen years to any inhabitant of the Commonwealth to plant, grow and dig mollusks or to plant shells for the purpose of catching mollusk seed upon and in any territory below mean high water mark. For the purposes specified the existing public right would permit no more than an entrance upon the flats for the taking of shellfish. See *Packard v. Ryder*, 144 Mass. 440, and cases cited. The proposed license, however, contemplates not only the granting of an exclusive right to take shellfish for a period not exceeding fifteen years and to plant and grow mollusks and plant shells for the purpose of catching mollusk seed upon the area defined in such license but, also, by implication the entire exclusion of the owner from any use or occupation thereof by inclosure or filling. See sections 14 and 17.

The exercise of the authority so established cannot, in my opinion, be justified as the imposition, under the police power, of a "reasonable regulation, limitation or restraint in the use and enjoyment of property which shall prevent the same from being injurious to others," such as the establishment of harbor lines, as sustained in *Commonwealth v. Alger*, 7 Cush. 53, 85, or the prohibition of the removal of sand or gravel from beaches, as in *Commonwealth v. Tewksbury*, 11 Met. 55, nor can it be regarded as merely a reasonable or proper regulation of or limitation upon the public right of fishing, such as was sustained in *Commonwealth v. Vincent*, 108 Mass. 441, and *Commonwealth v. Weatherhead*, 110 Mass. 175 (see, also, *Watuppa Reservoir Co. v. Fall River*, 147 Mass. 548, 557), for, in addition

to the regulation of the public right, the owner of the fee in any flats between mean high water mark and extreme low water mark is deprived of all use and enjoyment thereof for the duration of any license or licenses in which from time to time such flats may be included. This constitutes so material an interference with existing rights of property in such areas as to require me to hold that the bill in effect authorizes an exercise of the power of eminent domain without making due provision for compensating the owner of the property taken, and that, so far as the provisions of said bill purport to confer upon the Commissioners on Fisheries and Game authority to lease any area between high and low water mark which is the subject of private ownership, they will be, if enacted, unconstitutional and void.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

*Register of Deeds — Fee — Minimum Charge for Recording
Deeds, Mortgages and Other Instruments.*

The provision contained in St. 1912, c. 502, § 25, entitled “An Act to shorten the forms of deeds, mortgages and other instruments relating to real property,” that “fees for recording instruments drawn in accordance with the provisions of this act shall be the same as those now required by law, but in no case shall the charge for recording a deed or conveyance be less than sixty-five cents, and in no case shall the charge for recording a mortgage be less than one dollar and twenty-five cents,” establishes a minimum fee which is applicable to all deeds and mortgages whether or not they conform to the provisions of St. 1912, c. 502.

MAY 1, 1913.

Hon. FRANK L. DEAN, *Controller of County Accounts.*

DEAR SIR: — Section 25 of chapter 502 of the Acts of 1912, entitled “An Act to shorten the forms of deeds, mortgages and other instruments relating to real property,” provides as follows: —

Fees for recording instruments drawn in accordance with the provisions of this act shall be the same as those now required by law, but in no case shall the charge for recording a deed or conveyance be less than sixty-five cents, and in no case shall the charge for recording a mortgage be less than one dollar and twenty-five cents.

You inquire “whether the minimum charge established by this section relates only to instruments ‘drawn in accordance with

the provisions of this act' or applies to all instruments whether drawn in accordance with this act or otherwise."

The fees for recording instruments, now required by law, are established by R. L., c. 204, § 29, as amended by St. 1908, c. 365, and St. 1910, c. 273, and are as follows: —

The fees of registers of deeds shall be as follows: —

For entering and recording a deed or other paper, certifying the same on the original, and indexing it, and for all other duties pertaining thereto, twenty-five cents. If it contains more than one page, at the rate of twenty cents for each page after the first: *provided, however,* that if the deed or other paper contains the names of more than two parties thereto, other than the husband or wife of the grantor or grantee, an additional fee of ten cents each shall be charged for indexing the names of additional grantors or grantees or other parties thereto. The fees shall be paid when the instrument is left for record.

For all copies, at the rate of twenty cents a page.

For entering in the margin a discharge of a mortgage, twenty-five cents.

For entering a discharge of an attachment or of a lien on buildings and land, if such discharge is certified by them, twenty-five cents.

For entering a partial release of an attachment, twenty-five cents.

The language of section 25 warrants a conclusion that the Legislature intended to establish minimum recording charges for deeds and mortgages which should be uniform in application, and in my opinion the provision to which your inquiry is directed should be construed to apply to all deeds and mortgages, whether or not they conform to the provisions of St. 1912, c. 502.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Constitutional Law — Appointment of Executive or Administrative Board or Commission — Confirmation by Justices of Supreme Judicial Court.

A proposed act which provides that members of a commission established to conserve a water supply of a city shall be appointed by the mayor of said city and that such appointment shall be confirmed by the justices of the Supreme Judicial Court where the commission so appointed is an executive or administrative department of the municipality and performs no duty properly incidental to the administration of justice in or by the courts, if enacted would be unconstitutional and void.

MAY 7, 1913.

HON. FREDERIC M. HERSEY, *Chairman, Committee on Water Supply.*

DEAR SIR: — On behalf of the committee on water supply you have inquired whether or not it is “constitutional and lawful for the Legislature to provide that members of a commission appointed to conserve a water supply of a city shall be appointed by the mayor of said city and that the said appointment shall be confirmed by the justices of the Supreme Judicial Court.”

Since the appointments of the commissioners are to be made by the mayor of the city, I assume that the commission, when constituted and established, is intended to form an executive or administrative department of the municipality which is not in any way directly responsible to the Supreme Judicial Court, does not return to said court an account of its doings for any judicial action in the premises, and performs no duty which is properly incidental to the administration of justice in or by the courts. Upon this assumption, I am of opinion that the confirmation of such appointments does not involve the exercise of any judicial function and, therefore, cannot be imposed upon the justices of the Supreme Judicial Court, or any of them, and that the provision to which your inquiry refers, if enacted, will be unconstitutional and void as being in contravention of the provision of Article XXX. of the Declaration of Rights, that “the judicial (department) shall never exercise the legislative and executive powers, or either of them.” See case of *Supervisors of Election*, 114 Mass. 247.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Veteran in the Service of the Commonwealth — Retirement — Elective Officer.

The provision of St. 1907, c. 458, § 1, that “a veteran of the civil war in the service of the Commonwealth, if incapacitated for active duty, shall be retired from active service, with the consent of the governor, . . .” does not apply to elective officers and therefore does not include registers of probate.

WILLIAM D. HAWLEY, Esq., *Deputy Auditor.*

MAY 22, 1913.

DEAR SIR: — Under date of May 17 you inquire whether or not a register of probate who complies with the conditions and requirements of chapter 458 of the Acts of 1907 is eligible for retirement thereunder. This statute provides in section 1 that —

A veteran of the civil war in the service of the Commonwealth, if incapacitated for active duty, shall be retired from active service, with the consent of the governor, at one half the rate of compensation paid to him when in active service, to be paid out of the treasury of the Commonwealth: *provided*, that no veteran shall be entitled to be retired under the provisions of this act unless he shall have been in the service of the Commonwealth at least ten years. But if, in the opinion of the governor and council, any veteran of the civil war in said service is incapacitated to such a degree as to render his retirement necessary for the good of the service, he may so be retired at any time. A veteran retired under the provisions of this act, whose term of service was for a fixed number of years, shall be entitled to the benefits of the act without reappointment.

Registers of probate receive salaries from the Commonwealth, and are, therefore, in the service of the Commonwealth, if elective officers may be said to be in such service.

The phrase "service of the Commonwealth" is broad enough to include elective officers, but I am of opinion that the statute was not intended to apply to such officers. For one reason, it vests in the Governor and Council the power to retire the incumbent of an office at any time when the good of the service, in the judgment of the Governor and Council, may so require, and this right seems to me to be too sweeping and novel to have been intended to be applicable to elective officers generally. Again, in the concluding sentence, it is stated that "a veteran retired under the provisions of this act, whose term of service was for a fixed number of years, shall be entitled to the benefits of the act *without reappointment*." If elective officers had been included, it seems to me the words "or re-election" would have been used.

I therefore answer your inquiry in the negative.

Very truly yours,

JAMES M. SWIFT, *Attorney-General*.

Street or Elevated Railway Company — Employee — Hours of Labor.

A proposed act providing that "a day's work for all conductors, guards, drivers, motormen, brakemen and gatemen who are employed by or on behalf of a street railway or elevated railway shall not exceed nine hours, and shall be so arranged by the employer that it shall be performed within eleven consecutive hours," and

that "on legal holidays and on Sundays and in case of accident or unavoidable delay extra labor may be performed for extra compensation," if enacted, would prohibit the employment by a street railway or elevated railway company of any employee, even if such employee so desired, for more than nine hours in any one day, such employment to be performed in eleven consecutive hours, except on legal holidays and on Sundays or in case of accident or unavoidable delay.

JUNE 2, 1913.

Hon. GRAFTON D. CUSHING, *Speaker, House of Representatives.*

SIR:— I have the honor to submit herewith my opinion with reference to the order passed on May 26, 1913, and submitted to me under date of May 27, as follows:—

Ordered, That the opinion of the Attorney-General be requested upon the following important question, to wit: Under House Bill No. 2518 can an employee of the character mentioned in the bill, if he so desires, work longer hours than those prescribed in the bill?

House Bill No. 2518 reads as follows:—

SECTION 1. Chapter five hundred and thirty-three of the acts of the year nineteen hundred and twelve is hereby amended by striking out sections two and three and inserting in place thereof the following:— *Section 2.* A day's work for all conductors, guards, drivers, motormen, brakemen and gatemen who are employed by or on behalf of a street railway or elevated railway company shall not exceed nine hours, and shall be so arranged by the employer that it shall be performed within eleven consecutive hours. No officer or agent of any such company shall require from said employees more than nine hours' work for a day's labor. Threat of loss of employment or threat to obstruct or prevent the obtaining of employment by the employees, or threat to refrain from employing any employee in the future shall be considered coercion and "requiring" within the meaning of this section. On legal holidays and on Sundays and in case of accident or unavoidable delay extra labor may be performed for extra compensation.

SECTION 2. A company which violates any provision of this act shall forfeit for each offence not less than one hundred dollars nor more than five hundred dollars.

SECTION 3. This act shall not affect any written contract existing at the date of its passage.

For the purposes of this inquiry I assume the question to be whether or not it will be lawful for an employee affected by said bill, if he so desires, to work longer hours than those prescribed

in the bill. In its final analysis the question resolves itself into the inquiry as to whether or not a street railway company which would be affected by the passage of this bill may permit labor to be performed not within the time prescribed in said bill.

It is a familiar rule of interpretation of statutes that when certain exceptions are named in an act, excluding from its operation the exceptions so declared, other exceptions are thereby excluded. The natural conclusion under this rule would therefore be that when the bill, in the last sentence of section 1, makes certain exceptions to its prohibitions, in the following language —

On legal holidays and on Sundays and in case of accident or unavoidable delay extra labor may be performed for extra compensation.

the exceptions so named are the only occasions when the employee may perform labor outside of the time prescribed in said section. Consideration of previous legislation covering the same subject confirms this conclusion. Section 3 of chapter 533 of the Acts of 1912 provides as follows with reference to this particular contingency: —

On legal holidays and on Sundays and in case of unavoidable delay or other emergency, or at any time at the request of the employee, extra labor may be performed for extra compensation.

It is to be noted that the present bill omits the words "or other emergency, or at any time at the request of the employee," thereby showing the intention to eliminate the occasions so omitted and to more definitely limit the exceptions to those contained in the bill under consideration, which, it may be observed, also include the word "accident," which was not in the 1912 act. The conclusion therefore seems to be irresistible that this bill should be so construed as to limit the labor of employees covered by it so that it shall not exceed nine hours, so arranged that it shall be performed within eleven consecutive hours, except on legal holidays and on Sundays and in case of accident or unavoidable delay. I assume that the provision that on these occasions "extra labor may be performed" should be construed to authorize the employers to require the extra labor so permitted. Upon consideration of section 1 alone, I am forced to the conclusion that upon any other occasion it will

not be lawful for the employer to permit other work even if the employee so desires it.

The provisions of section 2, that "a company which violates any provision of this act shall forfeit for each offence," etc., also confirms this conclusion. The penalty provided is not against the requirement by the employer of more than nine hours' work for a day's labor, but it is against a violation of *any provision* of this act. The provisions declared in said section 1 which might be violated by the employer are: that a day's work shall not exceed nine hours; that they shall be so arranged that the labor may be performed within eleven consecutive hours; and that the employer shall not require more than the nine hours' work so established. It would seem that under the broad provisions of this penalty clause, except as permitted by the exceptions hereinbefore referred to, an employer exceeding nine hours of labor or permitting such labor to be performed outside of the eleven consecutive hours provided by the bill, even at the request of an employee, would be subject to the penalty so prescribed. The employer, therefore, will be prevented, in my opinion, from allowing more than the nine hours' work except upon the occasions already noted if said House Bill No. 2518 becomes a law in its present form. If it is desired to leave the situation so that the employee may if he so desires perform labor outside of the times prescribed in said act, I respectfully suggest that the bill should be amended to make this clear.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Statute — Construction of Contradictory Provisions — Sale of Eggs which by Reason of Decay or Decomposition are Unfit for Food — Prohibition.

The effect of St. 1913, c. 654, § 1, providing that "it shall be unlawful . . . to sell, offer for sale, expose for sale, or have in possession with intent to sell, eggs that are unfit for food within the meaning of this act," is limited to the sale, exposure for sale or intent to sell eggs which by reason of decay or decomposition are unfit for food, notwithstanding that by section 2 such statute is declared to be applicable to "eggs, which, either before or after removal from the shell, are wholly or partly decayed or decomposed," and that from the viewpoint of the chemist the process of decay or decomposition in eggs begins immediately after they have been laid.

JUNE 6, 1913.

MARK W. RICHARDSON, M.D., *Secretary, State Board of Health.*

DEAR SIR: — By a letter dated May 24 you have submitted for my consideration an inquiry relating to St. 1913, c. 654, which is entitled “An Act relative to the sale and use of eggs unfit for food.” This inquiry is in terms as follows: —

Section 1 of this chapter states in a general way that eggs that are unfit for food shall not be sold, offered for sale, exposed for sale or had in possession with intent to sell.

Section 2 defines under what conditions eggs shall be deemed to be unfit for food. This definition, however, would seem to be absolutely inadequate, inasmuch as in accordance with expert chemical opinion eggs begin to decompose immediately after they are laid, so that strictly enforced this law would practically prohibit the sale for food of all eggs of whatever age or character.

Will you not, at your earliest convenience, advise this Board as to what lines of action it should pursue under the circumstances?

Section 1 of chapter 654 provides that —

It shall be unlawful . . . to sell, offer for sale, expose for sale, or have in possession with intent to sell, eggs that are unfit for food within the meaning of this act.

Section 2 is as follows: —

This act shall apply to eggs, which, either before or after removal from the shell, are wholly or partly decayed or decomposed, and to eggs in the fluid state, any part of which is wholly or partly decayed or decomposed, and to eggs, in the fluid state or otherwise, that are mixed with parts of eggs which are derived from eggs that are wholly or partly decayed or decomposed. This act shall also apply to frozen masses of broken eggs, if the mass contains eggs that are wholly or partly decayed or decomposed, or that are mixed with parts of eggs that have been taken from eggs that were wholly or partly decayed or decomposed.

Section 3 provides that —

It shall be unlawful for any person, firm or corporation, or any officer, agent or employee thereof, to use eggs that are either wholly or partly decayed or decomposed in the preparation of food products. And it shall be unlawful to deliver, sell, purchase or accept wholly or partly decayed or decomposed eggs in or at any establishment where food products are prepared or manufactured.

Section 5 provides that —

The state board of health shall enforce the provisions of this act.

Section 6 provides that —

Nothing in this act shall be construed to prohibit the purchase, sale or possession for other than food purposes of rotten, decayed or partly decayed eggs which are unfit for food.

The provisions above quoted are loosely drawn and inartificial in terms, but it is, in my opinion, clear from a consideration of the act as a whole that it was intended as a prohibition against the sale of eggs which by reason of decay or decomposition are unfit for use as food. It may be true that standing alone the language of sections 2 and 3 is broad enough to include all eggs which are wholly or partly decayed or decomposed without reference to their fitness or unfitness to be used as food, but if, as stated in your inquiry, decomposition and decay in eggs begin immediately after they are laid, a literal construction of said sections would prohibit any sale of eggs at all, which could not have been the intent of the Legislature. The language of these sections must, therefore, be so far modified by the other provisions of the act as to limit the prohibitions contained therein to eggs which by reason of decay or decomposition are unfit for food. Any other construction would result in an absurdity.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Intoxicating Liquors — Sixth Class License — Breach of Condition — Termination — Forfeiture — Unlawful Sale — Conviction of Clerk of Licensee.

Under the provisions of R. L., c. 100, § 17, that each license to sell intoxicating liquors issued under the provisions of said section shall be subject, among others, to the condition "that the license shall be subject to forfeiture, as herein provided, for breach of any of its conditions; and that, if the licensee is convicted of a violation of any of such conditions, his license shall thereupon become void," the conviction of the clerk of a licensee holding a sixth class license of an unlawful sale of intoxicating liquor does not in and of itself render such license void, although such conviction constitutes a breach of the conditions of such license which renders it liable to forfeiture.

JUNE 11, 1913.

PETER J. McCORMICK, Esq., *Secretary, Board of Registration in Pharmacy.*

DEAR SIR: — The Board of Registration in Pharmacy has requested my opinion upon the following question: "If the clerk of a licensee holding a sixth class license is convicted of the unlawful sale of intoxicating liquor, does such conviction render null and void and cause a forfeiture of said license, and disqualify said licensee in the same manner as if he, the licensee, had been convicted of said unlawful sale?"

If I understand correctly the question in the minds of the Board, their inquiry might be expressed in other words as follows: If the clerk employed by a registered pharmacist holding a sixth class license to sell intoxicating liquor is convicted of the unlawful sale of intoxicating liquor, does the conviction of the clerk, in and of itself, without further action by the licensing board of the city or town or by the Board of Registration in Pharmacy, render null and void the license of the clerk's employer, in the same manner as if the employer himself, the licensee, had been convicted of said unlawful sale?

In my opinion the question as stated must be answered in the negative. R. L., c. 100, § 17, provides as follows: —

Each license shall be expressed, to be subject to the following conditions: —

Seventh, That the license shall be subject to forfeiture, as herein provided, for breach of any of its conditions; and that, if the licensee is convicted of a violation of any of such conditions, his license shall thereupon become void.

It is clear that under this provision of the statute if the employer himself, the licensee, is convicted of a violation of any condition of his license, the license thereupon becomes void without further act by any board or commission; but the conviction of the employer's clerk is not the conviction of the employer himself, and the provision of the statute that the license shall be subject to forfeiture is not the same in effect as the provision of the statute that upon conviction of the licensee the license shall thereupon become void.

The unlawful sale of intoxicating liquor by the clerk is a breach of the conditions of the license, rendering the license subject to forfeiture, but this breach of the conditions of the license

does not, in and of itself, work a forfeiture of the license. The forfeiture itself results from action taken by the licensing board under the provisions of R. L., c. 100, § 47, as amended by St. 1908, c. 108, which provides as follows: —

The licensing board, after notice to the licensee and reasonable opportunity for him to be heard by them or by a committee of the mayor and aldermen or selectmen, if the license was granted by them, may declare his license forfeited, or may suspend his license for such period of time as they may deem proper, upon satisfactory proof that he has violated or permitted a violation of any condition thereof, or any law of the commonwealth. The pendency of proceedings before a court or justice shall not suspend or interfere with the power herein given to decree a forfeiture. . . .

The same practical result as that following from a conviction of a violation of a condition of a license, and that resulting from a forfeiture declared by the licensing board, may also be effectuated by action taken by the Board of Registration in Pharmacy under section 23 of chapter 100 of the Revised Laws as finally amended by St. 1909, c. 261. By that section of the statutes the Board is authorized to issue to registered pharmacists certificates stating that in the judgment of the Board they are proper persons to be entrusted with a sixth class license, and in the final clause of section 23 it is provided —

The board may, after giving a hearing to the parties interested, revoke or suspend such certificate for any cause that it may deem proper, and such revocation or suspension shall revoke or suspend the sixth class license granted thereon.

While the jurisdiction of the Board of Registration in Pharmacy, under the provision last quoted, is limited to action upon the certificate of fitness, so called, yet, if the action of the Board is to suspend or revoke that certificate of fitness, such suspension or revocation does by operation of law cause a suspension or revocation of the license itself.

The answer to the question of the Board may, therefore, be summed up as follows: In cases where the licensee himself is convicted of a violation of the conditions of his license, the license becomes void merely through the fact of conviction, and no further action by the licensing board or by the Board of Registration in Pharmacy is necessary. In cases where there has been a breach of any of the conditions of the license, but the

licensee himself has not been convicted of the violation of the conditions of the license, it is necessary for the licensing board, after hearing, to declare the license forfeited, in order to effect a forfeiture. In cases where the license has not become void through conviction of the licensee of the violation of the conditions of the license, and in which the license has not been declared forfeited by the licensing board, the same practical result as under the two methods mentioned may be brought about by a revocation or suspension by the Board of Registration in Pharmacy of the certificate of fitness granted to the licensee under the provisions of R. L., c. 100, § 23, and its amendments.

Very truly yours,

JAMES M. SWIFT, *Attorney-General*.

Weymouth Back River — Attorney-General — “Cost and Expenses” Incidental to Construction of Bridge — Apportionment between Commonwealth and Counties of Norfolk and Plymouth — Discount or Interest on Loans.

In St. 1911, c. 739, as amended by St. 1912, c. 227, which established a commission to build a bridge over Weymouth Back River, the expense thereof to be apportioned between the Commonwealth and the counties of Norfolk and Plymouth, the words “cost and expenses,” as used in section 7, providing that “the cost and expenses incurred under the provisions of this act . . . shall be borne as follows: forty-five per cent by the commonwealth of Massachusetts, twenty per cent by the county of Norfolk, twenty per cent by the county of Plymouth, . . .” do not include interest on money borrowed by said counties.

JUNE 13, 1913.

Hon. JOHN E. WHITE, *Auditor of the Commonwealth*.

DEAR SIR: — In a letter of recent date you have stated that the commission authorized by chapter 739 of the Acts of the year 1911, as amended by chapter 227 of the Acts of 1912, to build a bridge over Weymouth Back River, has practically finished its duties, and that before the Commonwealth's portion of the cost is paid you wish to obtain my opinion upon the question “whether the words ‘cost and expenses’ as used in the first line of section 7 of chapter 739 of the Acts of 1911 are to be construed as including discount or interest on loans. In other words, is the State expected to bear its proportion of the expense for interest?”

It does not appear either from the statements in your letter or from the provisions of the statute referred to how the question presented by you arises in connection with the duties of your department at the present time in such a manner as to call for an opinion as to the rights of the Commonwealth under the act.

St. 1911, c. 739, § 6, provides as follows:—

When the said bridge and approaches are completed, and the full cost and expenses of the same, including damages, if any, awarded under the preceding section are ascertained, the said bridge commissioners shall file, in the office of the clerk of the superior court for the county of Norfolk, their report of the fact, together with a detailed statement of the amount of the cost and expense, whereupon and upon the application of said bridge commissioners or of any party interested, and after such notice as the court may order, a hearing shall be had upon the approval and acceptance of the said statement, and when the same has been approved and accepted by the court it shall be binding upon all parties interested.

I understand that the report and statement of the amount of cost and expense required by the provisions of this section to be filed by the bridge commissioners in the office of the Superior Court for the County of Norfolk have not yet been filed, for I assume that the Commonwealth, through this department, would be notified by the bridge commissioners of the filing of such report and would be given an opportunity to avail itself of the right granted by the section quoted to be heard upon the question of the approval and acceptance of the report and statement.

If I am correct in assuming that the report of the bridge commissioners has not yet been filed, it would seem that the only officials now having the question of the items to be included under "cost and expense" properly before them are the bridge commissioners themselves.

It is at least doubtful whether the bridge commissioners would be entitled to ask for an official opinion from the Attorney-General upon the question, and since the Commonwealth is one of the parties to the apportionment to be made under the statute, and will in the usual course be represented by the Attorney-General in any hearing upon the question of the acceptance and approval of the report of the bridge commissioners filed in court, the Attorney-General so representing a party to the apportionment is hardly in a position to give an opinion which should be

considered as having a binding force upon the conduct of the bridge commissioners.

I assume, however, that at some stage of the proceedings, if occasion arises, all the parties interested, including the Commonwealth, will have opportunity to state their contentions, and upon the theory that this case may have the effect of a precedent for the determination of other questions which may arise in your department, I have no objection to stating, for your information, my views upon the proper construction of the statute, as indicating what the contention of the Commonwealth will be if occasion arises for stating the position of the Commonwealth upon the matter of the apportionment of the expenses incurred under this act.

In my opinion, the words "cost and expense," as used in the act, are not to be construed as including interest on money borrowed by the counties of Norfolk and Plymouth.

The meaning of the act is, at first glance, somewhat obscured by the use of the words "cost and expense" instead of the word "cost" alone, but in my opinion the word "expense" adds nothing to the word "cost," and nothing is to be construed as included under the term "cost and expense" which would not have been included under the term "cost" alone.

Section 6 of the act quoted above provides that "when the said bridge and approaches are completed, and the full cost and expenses of the same," that is, the bridge and approaches, including damages, are ascertained, the commissioners shall file their report and statement, and that that statement, when approved and accepted by the court, shall be binding on all parties interested. Section 7 of the act provides as follows:—

The cost and expenses incurred under the provisions of this act, approved by the court as aforesaid, shall be borne as follows: forty-five per cent by the commonwealth of Massachusetts, twenty per cent by the county of Norfolk, twenty per cent by the county of Plymouth, and fifteen per cent by any street railway company that may apply for and be granted a location on said bridge by the towns of Weymouth and Hingham in the manner now provided by law; and the county of Plymouth and the county of Norfolk shall thereupon be reimbursed for such sums of money as they have respectively expended under the provisions of this act by said parties and to the extent necessary to cause the cost and expense as aforesaid to be borne in the proportions aforesaid: *provided, however*, that any sums that may be received from the United States in reimbursement of

these expenditures shall be distributed as follows: forty-five per cent to the commonwealth of Massachusetts, twenty per cent to the county of Norfolk, twenty per cent to the county of Plymouth, and fifteen per cent to the street railway company.

The interest which the counties are required to pay upon the money borrowed is not strictly a part of the actual cost of the bridge and approaches constructed under the provisions of the act. Only the full cost and expense of constructing the bridge and approaches is, however, to be included in the statement filed by the commissioners under the provisions of section 6, and approved by the court under the same section. Under the provisions of section 7, only the cost and expenses approved by the court "as aforesaid" are to be apportioned between the parties.

The words "cost and expenses incurred hereunder," as used in section 2 of the act, when considered with the context and in the light of decisions of the court under somewhat similar statutes, have no broader meaning.

Under section 2 the county commissioners of Norfolk and Plymouth are "authorized and directed to borrow on the credit of their respective counties such sums of money as may from time to time be required for the said cost and expenses." To construe "said cost and expenses," to meet which the county commissioners are required to borrow money, as including the cost of borrowing that money would be an unusual construction of an act of this nature. The words "cost and expenses" are rather to be limited to the actual cost of doing the work provided for under the act.

The interest upon the money borrowed is to be regarded as a burden which the counties are obliged to assume for the purpose of putting themselves in a position to do the things which they were required under the terms of the act to do.

The question in its essence is closely similar to that presented in the case of *Old Colony Railroad Co., petitioner*, 185 Mass. 160. The statute under consideration in that case was St. 1892, c. 433, which provided in section 2 as follows: —

The alterations and improvements prescribed by said commission shall be made by the Old Colony Railroad Company, and the expense thereof paid by it, and for that purpose it may issue its stock from time to time, etc.

Section 3 of the same statute provided that the Commonwealth should "repay to said railroad company forty-five per cent of the cost incurred by said company in carrying out said alterations and improvements, as audited and approved by the auditors."

The railroad claimed in that case that money paid by way of interest on money used to pay for the alterations was a part of the "actual cost." The court said: —

In a broad sense this is true of a railroad company which is obliged to hire money to meet the obligation imposed by the statute.

But it held that it was not the intent of the statute to include such an item under the term "cost incurred," saying: —

That such a construction would open the door to let in claims that would be not only large in amount, but uncertain and contingent in their character, is reasonably clear.

In my opinion, the reasoning in that decision and in the cases cited therein is applicable to the question presented by you.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Hours of Labor — Employees of Street and Elevated Railway Companies — Regulation — Legislature — Constitutional Law — Police Power — Construction of Statute.

The reasonable regulation of the hours of labor for employees of a street or elevated railway company in such a manner as to conserve the health, safety and welfare of the public constitutes a proper exercise of the police power.

In passing an act to provide that "a day's work for all conductors, guards, drivers, motormen, brakemen and gatemen who are employed by or on behalf of a street railway or elevated railway company shall not exceed nine hours, and shall be so arranged by the employer that it shall be performed within eleven consecutive hours," it must be presumed that the Legislature had in view the protection of the health, safety and welfare of the public, and it cannot be said either that such act has no reasonable relation to the object for which it was enacted or that the Legislature could not have found upon evidence presented to it that a condition of affairs existed which required its action in the premises.

Where the question of the constitutionality of a statute is doubtful, the doubt should be resolved in favor of the statute.

JUNE 14, 1913.

His Excellency EUGENE N. FOSS, *Governor of the Commonwealth.*

SIR: — Your Excellency has requested my opinion upon the constitutionality of House Bill No. 2518, entitled “An Act relative to the hours of labor of employees of street railway companies,” which is before you for approval or disapproval. The bill in its final amended form provides as follows: —

SECTION 1. Chapter five hundred and thirty-three of the acts of the year nineteen hundred and twelve is hereby amended by striking out sections two and three and inserting in place thereof the following: — *Section 2.* A days’ work for all conductors, guards, drivers, motormen, brakemen and gatemen who are employed by or on behalf of a street railway or elevated railway company shall not exceed nine hours, and shall be so arranged by the employer that it shall be performed within eleven consecutive hours. No officer or agent of any such company shall require from said employees more than nine hours’ work for a day’s labor. Threat of loss of employment or threat to obstruct or prevent the obtaining of employment by the employees, or threat to refrain from employing any employee in the future shall be considered coercion and “requiring” within the meaning of this section. But nothing herein shall prevent an employee of the character mentioned in this act, if he so desires, from working more hours than those prescribed in the act for extra compensation.

SECTION 2. A company which violates any provision of this act shall forfeit for each offence not less than one hundred dollars nor more than five hundred dollars.

SECTION 3. This act shall not affect any written contract existing at the date of its passage.

It hardly needs to be stated that the Attorney-General, in advising the Governor of the Commonwealth upon a question of this nature, is not in the position of a court considering the constitutionality of the act as applied to a specific case which has arisen, and that the opinion of the Attorney-General submitted in reply to such a question has not the force of an adjudication by the court upon the question of the constitutionality of an act which has arisen in a case between parties before it.

Nevertheless, such a question presented to the Attorney-General must be considered within the same limitations within which it would be considered by the court of last resort in a specific case, since the only effect of an opinion of the Attorney-General is to advise the Governor so far as possible as to how the Supreme Court might be expected to rule upon the question

now presented, in view of the previously decided cases upon the question.

It has been repeatedly stated in decisions of both the State and Federal courts that questions having to do merely with the policy of the legislation and the judgment exercised by the Legislature in its enactment are not matters coming within the purview of a decision of the courts. That principle was thus stated in *Chicago, Burlington & Quincy R.R. Co. v. McGuire*, 219 U. S. 549, 569:—

The scope of judicial inquiry in deciding the question of *power* is not to be confused with the scope of legislative considerations in dealing with the matter of *policy*. Whether the enactment is wise or unwise, whether it is based on sound economic theory, whether it is the best means to achieve the desired result, whether, in short, the legislative discretion within its prescribed limits should be exercised in a particular manner, are matters for the judgment of the Legislature, and the earnest conflict of serious opinion does not suffice to bring them within the range of judicial cognizance.

And in *McLean v. Arkansas*, 211 U. S. 547, 548, it is stated as follows:—

The Legislature, being familiar with local conditions, is, primarily, the judge of the necessity of such enactments. The mere fact that a court may differ with the Legislature in its views of public policy, or that judges may hold views inconsistent with the propriety of the legislation in question, affords no ground for judicial interference, unless the act in question is unmistakably and palpably in excess of legislative power.

The policy of the legislation in question, therefore, I do not discuss.

The Constitution of Massachusetts provides in Part the Second, Chapter I., Section I., Article IV., as follows:—

And further, full power and authority are hereby given and granted to the said general court, from time to time to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof.

It is to be presumed that the Legislature attempted to act under and in accordance with this provision in formulating the bill presented, and the judicial question presented is whether, in so doing, it has in fact exceeded its constitutional powers.

The only contention which has been raised before me in this regard is that it unwarrantably deprives those who are subject to it of the liberty guaranteed both by the State and Federal constitutions, which, it is well established by many decisions, includes the right of contract.

Both property and liberty, however, are held subject to such reasonable conditions as may be imposed by the governing power in the exercise of those powers called "police powers," which do not permit of exact definition but are generally described in the decisions of the United States Supreme Court as "relating to the safety, health, morals and general welfare of the public."

The question of regulating the hours of labor for men has been one of great difficulty and has resulted in much difference of opinion by the courts. It must be settled on considerations differing somewhat from those determining the right to regulate the hours of governmental employment and the hours of labor of women and children. In the case of *Holden v. Hardy*, 169 U. S. 366, the court, with two justices dissenting, sustained as a valid exercise of the police power a statute of the State of Utah entitled "An Act regulating the hours of employment in underground mines and in smelters and ore reduction works," which limited to eight hours per day the period of employment in all underground mines and in smelters and all other institutions for the reduction or refinement of ores or metals, except in case of emergency. The court, in the course of its opinion, said: —

These employments, when too long pursued, the Legislature has judged to be detrimental to the health of the employees, and, so long as there are reasonable grounds for believing that this is so, its decision upon this subject cannot be reviewed by the Federal courts.

In the case of *Lochner v. New York*, 198 U. S. 45, the court, with three justices dissenting, reversed a decision of the highest court of New York and held unconstitutional a statute of New York limiting to sixty hours in any one week the period of employment in a biscuit, bread or cake bakery or confectionery establishment, and containing no emergency clause, as not within the limits of the police power, for the reason that it did not

appear that the health of either the employees or the public was directly involved.

Some features are presented by the bill now before Your Excellency which were not present in the legislation before the courts in the cases cited. The employees to which the bill applies are employed in operating cars of a street railway. The matter of public safety may, therefore, have been considered by the Legislature as directly involved in connection with the health of the employee. From the viewpoint of the safety of the public it is a matter of common knowledge that a high degree of efficiency in the persons operating the cars is desirable. In the case of *Baltimore & Ohio R.R. Co. v. Inter-state Commerce Commission*, 221 U. S. 612, 619, it is said:—

The length of hours of service has direct relation to the efficiency of the human agencies upon which protection of life and property necessarily depend.

Another distinctive feature of the legislation now in question is that it deals with public corporations and the use of public franchises, and for that reason the Legislature may be considered as having wider jurisdiction under the police power than it would have in a matter involving private contracts.

Since 1893 there has existed upon the statute books of this Commonwealth a law providing that not more than ten hours of labor a day should be exacted of employees of street railway companies. I am not aware that in this Commonwealth the question as to the constitutionality of that provision has been presented to the Supreme Court. In an opinion to the Governor on June 24, 1902, the Supreme Court of Rhode Island, however, advised that a similar statute was constitutional. 24 R. I. 603. A short time after that opinion was rendered the Rhode Island statute was so amended as to give the employees of a street railway opportunity to work more than ten hours a day if they so desired, and that law, which in its amended form closely corresponds to the bill now before Your Excellency, has remained upon the statute books of Rhode Island without challenge since its enactment.

In the case of *Chicago, Burlington & Quincy R.R. Co. v. McGuire*, 219 U. S. 549, 569, the court, after citing many cases involving the exercise of the police power, said:—

The principle involved in these decisions is that where the legislative action is arbitrary and has no reasonable relation to a purpose

which it is competent for government to effect, the Legislature transcends the limits of its power in interfering with liberty of contract; but where there is reasonable relation to an object within the governmental authority, the exercise of the legislative discretion is not subject to judicial review.

In the case of *McLean v. Arkansas*, 211 U. S. 547, 548, the court said: —

If there existed a condition of affairs concerning which the Legislature of the State, exercising its conceded right to enact laws for the protection of the health, safety or welfare of the people, might pass the law, it must be sustained; if such action was arbitrary interference with the right to contract or carry on business, and having no just relation to the protection of the public within the scope of legislative power, the act must fail.

Discussing merely the constitutional question which has been presented to me, I cannot say either that the legislation under discussion has no reasonable relation to the object which I am bound to presume the legislation had in view, the protection of the health, safety and welfare of the public, or that the Legislature cannot have found upon evidence presented to it, which, however, is not before me, that a condition of affairs existed which required it to enact the legislation in question for the protection of the health, safety and welfare of the people.

In view, also, of the provision that the employees may, if they so desire, work more than nine hours in a day, for extra compensation, the bill does not upon its face appear to be so unreasonable and extravagant as to be adjudged an arbitrary interference with the right of contract. The contention that the Legislature had in view the public health and safety is not necessarily negatived by the permissive feature with reference to the employees, in the latter part of the bill. The Legislature may have presumed that the employees would not desire to work longer than the hours prescribed unless they were physically able and competent to do so. While it appears by this provision that the Legislature has not gone as far as it might have attempted to in protecting the public health and safety, it does not for that reason make less valid the protection afforded by the enactment.

It is a rule of constitutional construction that in case of a reasonable doubt the court is bound to resolve the doubt in favor of the statute.

In view of all these considerations I am led to the conclusion that there is a strong probability that the court of last resort would not declare this act unconstitutional.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

State Board of Insanity — Appointment of Agent to fill New Position — Appropriation.

Under the provision of St. 1909, c. 504, § 4, that the State Board of Health "may appoint agents and subordinate officers and fix their compensation, but the amount paid for their salaries shall not exceed the appropriation of the general court for that purpose," a position may be created by such Board and an agent appointed to fill it at any time if the salary for such agent as fixed by such Board may be paid from the existing appropriation.

JUNE 18, 1913.

CHARLES E. THOMPSON, M.D., *Executive Officer, State Board of Insanity.*

DEAR SIR: — You have inquired on behalf of the State Board of Insanity "whether it may appoint, under section 4, chapter 504, Acts of 1909, an agent to a new position about to be created by the Board, for whom no provision was made at the time the appropriation for salaries was granted, but whose salary will be paid from the appropriation for this department provided it is sufficient."

The section to which your inquiry refers is as follows: —

The board may appoint agents and subordinate officers and fix their compensation, but the amount paid for their salaries shall not exceed the appropriation of the general court for that purpose. The board may delegate any of its powers and duties to, and may execute any of its functions by, agents appointed for that purpose or by committees of the board. The board shall hold meetings each month, and oftener if necessary. It shall make its own by-laws, and shall annually report its doings to the governor and council on or before the third Wednesday in March, the report being made up to and including the thirtieth day of November.

Under this provision the Board is authorized to appoint such agents as may be necessary for the transaction of its business and may fix their salaries, provided that the amount of the salaries so fixed does not exceed the amount appropriated by the Legislature for the payment of such salaries. This being so, I see no

reason why a position may not be created and an agent appointed to fill it at any time if the salary for such agent as fixed by the Board may be paid from the existing appropriation as required by the section above quoted; and it is, in my opinion, immaterial that the position in question had not been created at the time when such appropriation was made.

Very truly yours,

JAMES M. SWIFT, *Attorney-General*.

Collateral Loan Company — Increase of Capital Stock — Commissioner of Corporations — Approval.

The Collateral Loan Company, which is a loan agency engaged in the business of making small loans, is a "corporation heretofore organized by special act of the legislature for a purpose or purposes for which corporations may be organized under the provisions of chapter four hundred and thirty-seven of the acts of the year nineteen hundred and three and acts in amendment thereof or in addition thereto," and is therefore within the provision of St. 1912, c. 586, § 1, that such corporations shall be subject to the provisions of St. 1903, c. 437, in respect to the amount of real or personal property which they may hold and may from time to time increase or decrease their capital stock in accordance with the provisions of such chapter.

The Commissioner of Corporations may, therefore, approve an increase of the capital stock of the Collateral Loan Company duly made in accordance with the requirements of St. 1903, c. 437, §§ 40, 41 and 42.

JULY 10, 1913.

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

DEAR SIR: — You have requested my opinion upon the question whether you may approve as conforming to the requirements of law certain articles of amendment to its agreement of association which provide for an increase of capital stock, submitted to you for approval under the provisions of St. 1903, c. 437, by the Collateral Loan Company, purporting to act under authority of St. 1912, c. 586.

St. 1912, c. 586, § 1, provides as follows: —

Every corporation heretofore organized by special act of the legislature for a purpose or purposes for which corporations may be organized under the provisions of chapter four hundred and thirty-seven of the acts of the year nineteen hundred and three and acts in amendment thereof or in addition thereto, except corporations which

are empowered to manufacture, store, transmit, sell or distribute power, which now is or may hereafter become subject to said chapter four hundred and thirty-seven, shall hereafter, despite any provisions contained in its charter, be subject to said chapter in respect to the amount of real or personal property which it may hold, and may from time to time increase or decrease its capital stock in accordance with the provisions of said chapter four hundred and thirty-seven.

St. 1903, c. 437, § 40, provides as follows:—

Every corporation may, at a meeting duly called for the purpose, by the vote of a majority of all its stock, or, if two or more classes of stock have been issued, of a majority of each class outstanding and entitled to vote, authorize an increase or a reduction of its capital stock and determine the terms and manner of the disposition of such increased stock, may authorize a change, etc.

Section 41 of the same chapter provides:—

Articles of amendment signed and sworn to by the president, treasurer and a majority of the directors shall, within thirty days after said meeting, be prepared, setting forth such amendment or alteration, and stating that it has been duly adopted by the stockholders. Such articles shall be submitted to the commissioner of corporations, who shall examine them in the same manner as the original articles of organization. If he finds that they conform to the requirements of law, he shall so certify and indorse his approval thereon, and they shall thereupon be filed, etc.

Since nothing appears in your letter to the contrary, I assume that the increase in the amount of the capital stock has been made in accordance with the requirements of section 40 above quoted and also in accordance with the provisions of section 42 of the same chapter.

The question presented, therefore, is whether the Collateral Loan Company is included within the provisions of St. 1912, c. 586, as a corporation heretofore organized by special act of the Legislature for a purpose or purposes for which corporations may be organized under the provisions of chapter 437 of the Acts of the year 1903, and acts in amendment thereof or in addition thereto.

The question is somewhat complicated by the peculiar terms of the original act incorporating this corporation, but in my opinion is to be answered in the affirmative.

The doubt concerning the matter arises chiefly from the fact that St. 1903, c. 437, § 1, in providing what corporations should be subject to the business corporation law and what corporations should not be subject to it, provides "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, trust company, surety or indemnity company, safe deposit company, etc.," and from the fact that this corporation in its original charter and early amendments thereof is designated as a "bank."

The corporation was chartered by St. 1859, c. 173, under the name of "Pawners' Bank," in the following terms:—

with the powers and privileges, and to be governed by the rules and provisions established by law relative to banks in this Commonwealth, so far as applicable to the objects of this institution. It shall not be a bank of issue, and shall loan on pledge of goods and chattels only.

In substantially every section of the act also the corporation is spoken of as a bank, although it clearly appears that the object of its incorporation was not the business of a bank in the usual sense of the term, but merely the transaction of the business of loaning money on pledge of goods and chattels.

By St. 1869, c. 428, the name was changed to Collateral Loan Company, its present name. The nature of the business to be transacted was not changed by the provisions of this act, and in various sections of the act the corporation was still referred to as a bank.

By St. 1888, c. 170, the corporation was made subject to examination by the Bank Commissioner of the Commonwealth.

But the essential point to be considered in the determination of the question presented is not by what name the corporation is designated but rather for the purpose of carrying on what business the corporation was organized.

Although the corporation was designated as a bank in the charter of the corporation and early amendments thereof, and although it might be considered as a sort of bank with narrowly limited powers, in my opinion it is not to be considered as having been organized "for the purpose of carrying on within the commonwealth the business of a bank," within the meaning of the term as used in the business corporation law of 1903.

The small loan business at the time of the enactment of the

business corporation law of 1903 was fully recognized, and for many years prior thereto had been recognized as a business differing from an ordinary banking business. In the administration of the business corporation law from the date of its enactment to the present time, it has not been considered that corporations carrying on a business similar to that carried on by the Collateral Loan Company are excluded from the provisions of the act on the ground that they are organized for the purpose of carrying on the business of a bank. Loan companies have been organized in recent years under the provisions of this act of 1903 and have otherwise conformed to the provisions of the act. The Collateral Loan Company itself was included in the original list of corporations existent at the time of the enactment of the business corporation law of 1903, to which that law was to be considered applicable. It has been subjected to the provisions of that law both with reference to taxation and other matters ever since the enactment of the law, with the acquiescence of all parties in interest.

Finally, if further evidence be necessary that for the purpose of classification the corporation is to be considered as organized for the purposes of a loan agency and not for the purpose of carrying on a banking business, that evidence is supplied by the provisions of St. 1911, c. 727, entitled "An Act to regulate the business of making small loans," which subjects all small loan agencies in this Commonwealth to the supervision of a State officer known as the Supervisor of Loan Agencies; transfers the powers and duties formerly exercised by the Bank Commissioner to this supervisor, and provides in section 23 as follows:—

All parts of the charters of the Collateral Loan Company, Workingmen's Loan Association, Worcester Collateral Loan Association and Chattel Loan Company inconsistent herewith are hereby repealed.

Under the terms of this act any parts of the charter of the Collateral Loan Company which might be considered as being inconsistent with its now being considered and dealt with as a loan agency rather than as a bank are repealed, and the intent of the Legislature that the company shall be placed upon the same basis as other loan agencies is clearly indicated.

As previously stated, loan agencies may be incorporated under the provisions of St. 1903, c. 437, and the Collateral Loan Company is, therefore, to be considered as included among the corporations "heretofore organized by special act of the legisla-

ture for a purpose or purposes for which corporations may be organized under the provisions of chapter four hundred and thirty-seven of the acts of the year nineteen hundred and three," and is, therefore, authorized under the provisions of St. 1912, c. 586, to increase its capital stock in accordance with the provisions of the Acts of 1903.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Insane Person — Hospital — Trustees — Authority of Trustees to Limit Number of Patients — State Board of Insanity.

The trustees of a State hospital for the insane have no authority by vote or resolution to limit the number of patients to be treated at such hospital, and if the State Board of Insanity, in the exercise of the power vested in it by St. 1909, c. 504, § 10, to make such recommendations to the trustees of an institution for the insane as it may deem expedient, should recommend that accommodations be provided for additional patients, it would be the duty of such trustees to provide them.

JULY 14, 1913.

Mrs. MARY B. TOWNSLEY, *Secretary, Trustees of the Monson State Hospital.*

DEAR MADAM:— In behalf of the trustees of the Monson State Hospital you have sent me a copy of a resolution passed by vote of the trustees and have requested my opinion upon the questions whether the trustees have the power through passing such a resolution to limit the number of patients to be treated at the hospital, and whether the State Board of Insanity may require an increase of accommodations for patients beyond the limit fixed by the trustees.

The vote of the trustees was as follows:—

Voted, That the capacity of this hospital should be limited to twelve hundred patients and that the policy of this Board be to ask only for appropriations and buildings sufficient to care for this number of patients.

In my opinion the present laws with reference to the hospital are such that the number of patients to be treated at the hospital may be absolutely limited only by action of the Legislature, and the vote of the trustees has the force only of the expression

of the opinion of the trustees as to the policy the pursuance of which would enable the hospital to do its best work.

The provisions of the vote could not be given full effect as a practical matter on account of the provisions of law regulating admission of patients to the hospital. So far as patients are admitted upon application to the trustees, the number of inmates of the hospital is to some extent within the control of the trustees, but, under the provisions of St. 1909, c. 504, § 58, as amended by St. 1911, c. 71, an insane epileptic may be committed to this hospital under the laws applicable to the commitment of other insane persons, without any action being taken by the trustees, and, through the provisions of St. 1909, c. 504, § 12, patients may likewise be committed upon application of the State Board of Insanity. No provision appears to have been made to give the trustees power to control the extent to which the number of inmates of the hospital may be increased by such commitments.

That it is not the intent of the statutes that the trustees of the hospital shall be vested with authority absolutely to fix the limits of the size of the institution seems also to be indicated by the provisions of St. 1907, c. 520, which, by the provisions of St. 1909, c. 504, § 8, are made applicable to this hospital. Under the provisions of the 1907 act plans for new construction or for alteration or repairs of existing buildings for which it is intended to petition the General Court for appropriations must first be submitted to the State Board of Insanity, and that Board " may require such modifications thereof and additions thereto and such additional information as it may deem necessary."

These various provisions are consistent with the terms of the original act providing for the establishment of the hospital. St. 1895, c. 483. Section 6 of that act is as follows:—

Said trustees shall have the same powers and shall be required to perform the same duties in the management and control of said hospital as are vested in and required of the trustees of the various state lunatic hospitals under sections six, seven and nine of chapter eighty-seven of the Public Statutes.

Section 6 of chapter 87 of the Public Statutes, referring to the trustees of each hospital, provides as follows:—

They shall take charge of the general interests of the institution, and see that its affairs are conducted according to the requirements of the legislature and the by-laws and regulations which the board

shall establish for the internal government and economy thereof; and they shall be reimbursed all expenses incurred in the discharge of their official duties.

Section 7 of the same chapter provides:—

They shall establish by-laws and regulations, with suitable penalties, for the internal government and economy of the institution; etc.

The effect of these various enactments is that although the internal government of the institution is in the hands of the trustees, it is not within the power of the trustees absolutely and finally to determine the place of the hospital in the institutional system of the Commonwealth and to limit absolutely the extent of the portion of the field of the care of the insane of the Commonwealth which shall be filled by this particular institution.

So long as “the requirements of the legislature” are that the number of patients shall not be absolutely within the control of the trustees, but that the trustees shall receive patients committed to the hospital by order of court independent of action by the trustees, the trustees are bound to conduct the hospital according to those requirements so far as it is reasonably possible. If in the opinion of the trustees the effectiveness of the institution is impaired by reason of the increase of patients beyond certain limits, the remedy, if it is to be effective, must be by appeal to the Legislature rather than through an attempt to enforce a vote of the trustees which has not the force of law.

The question as to the authority of the State Board of Insanity to require an increase of accommodations beyond the limits fixed by the trustees is substantially answered by what has been said with reference to the legal effect of the vote of the trustees. The providing of accommodations for patients which the trustees are bound by law to receive is part of the duties of the trustees and is, therefore, required by the statutes rather than by the State Board of Insanity. The State Board of Insanity, however, under the provisions of St. 1909, c. 504, is at the head of the entire system of caring for the insane, the feeble-minded, the epileptics and the dipsomaniacs in the Commonwealth, with powers of supervision over all public and private institutions and receptacles for such patients. Under the provisions of section 10 of the statute providing for visitation and inspection of the hospitals by the Board and authorizing the Board to “make such recommendations to the trustees or super-

intendent of the institution as it may deem expedient," the Board would not in my opinion exceed its powers if, under conditions which seem to it to demand additional accommodations, it should recommend that such accommodations should be provided.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Taxation — Domestic Business Corporation — Distribution of Tax — Canal Company — Corporation having the Right to take or condemn Land — The Essex Company.

The words "domestic business corporation," as used in St. 1910, c. 456, § 1, providing that the tax assessed upon domestic business corporations under the provisions of St. 1909, c. 490, Part III., shall be distributed, credited and paid to cities and towns or shall be retained by the Commonwealth in the manner therein provided, are to be construed as having the meaning of the same words as used in St. 1909, c. 490, Part III., defined in section 39 to include "every corporation of the classes enumerated in section one of chapter four hundred and thirty-seven of the acts of the year nineteen hundred and three."

By St. 1903, c. 437, § 1, after enumerating the classes of corporations to which such chapter shall apply, it is provided 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 . . . canal, aqueduct or water company . . . or to any other corporations which now have or may hereafter have the right to take or condemn land or to exercise franchises in public ways . . ." It follows that since the Essex Company, which was chartered by special act (St. 1845, c. 163) and owns canals and locks in the city of Lawrence, and is vested with the right to take or condemn lands and to exercise franchises in public ways, is excluded from the provisions of St. 1903, c. 437, the business corporation law, it is, therefore, not a domestic business corporation within the meaning of St. 1910, c. 456, § 1.

AUG. 27, 1913.

CHARLES A. ANDREWS, Esq., *Deputy Tax Commissioner.*

DEAR SIR: — You have requested my opinion upon the question whether the Essex Company, a corporation chartered by special act (St. 1845, c. 163), owning the canals and locks in the city of Lawrence, is a domestic business corporation within the meaning of section 1 of chapter 456 of the Acts of the year 1910.

St. 1910, c. 456, § 1, provides as follows:—

The tax assessed upon domestic business corporations under the provisions of Part III. of chapter four hundred and ninety of the acts of the year nineteen hundred and nine shall be distributed, credited and paid to cities and towns of the commonwealth or shall be retained by the commonwealth in the manner following: Such part of said tax paid by each of said domestic business corporations as is paid on account of shares of stock of said corporations owned by non-residents of Massachusetts shall be retained by the commonwealth. The remainder of said tax paid by each of said corporations shall be distributed, credited and paid to the city or town of the commonwealth where the business of the corporation is carried on, and if any such corporation maintains an office, store or factory in more than one city or town of the commonwealth this part of the tax paid by it shall be distributed, credited and paid to such cities and towns in proportion to the value of the tangible property of the corporation in each of such cities or towns on the first day of April, as determined from the returns or in any other manner: *provided*, that if any such corporation does not conduct its business in Massachusetts and does not own any tangible property in any city or town of the commonwealth, other than furniture and equipment reasonably necessary for the use of the clerk or other executive officers of such corporation, all of the tax paid by such corporation shall be retained by the commonwealth.

In my opinion the phrase “domestic business corporation,” as used in this act, must be construed as having the same meaning as the same phrase used in Part III. of chapter 490 of the Acts of the year 1909. St. 1909, c. 490, Part III., § 39, provides as follows:—

The term “domestic business corporation” as used in this act shall mean every corporation of the classes enumerated in section one of chapter four hundred and thirty-seven of the acts of the year nineteen hundred and three; . . .

Section 1 of chapter 437 of the Acts of 1903 enumerates the classes of corporations to which that business corporation law shall not apply, as well as the classes to which it shall apply; but section 39, above quoted, in referring to “the classes enumerated in section one of chapter four hundred and thirty-seven” can be reasonably construed only as referring to the classes enumerated in section 1 as subject to the provisions of the business corporation law.

Section 1, after enumerating the classes of corporations to which the law shall apply, provides as follows:—

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, insurance company, railroad or street railway company, telegraph or telephone company, gas or electric light, heat or power company, canal, aqueduct or water company, cemetery or crematory company, or to any other corporations which now have or may hereafter have the right to take or condemn land or to exercise franchises in public ways granted by the commonwealth or by any county, city or town.

In my opinion, by these latter provisions the Essex Company is expressly excluded from the application of the business corporation law. The original charter of the corporation, St. 1845, c. 163, makes the individuals therein named a corporation "for the purpose of constructing a dam across Merrimack river, and constructing one or more locks and canals in connection with said dam, to remove obstructions in said river by falls and rapids, from Hunt's Falls to the mouth of Shawsheen river, and to create a water power to use, or sell, or lease to other persons or corporations, to use for manufacturing and mechanical purposes." By section 3 of the same act it is "authorized and empowered to construct and maintain a dam across said river, either at Deer Jump Falls, or Bodwell's Falls, or some point in said river between said falls, and all such canals and locks as may be necessary for the purposes aforesaid; and for the purpose of making said dam, and constructing the main canal for navigation, or transports, may take, occupy, and inclose any of the lands adjoining said canals and locks, or dam, which may be necessary for building or repairing the same, for towing paths, and other necessary purposes, not exceeding twenty feet on each side of said canal, or locks, and may blow up and remove any rocks in said river, and dig in any of the lands near to said river, through which it may be necessary to pass said main canal." By section 4 it is provided:—

If there shall be occasion, in the prosecution of the powers and purposes aforesaid, to make a canal across any public highway, or if highways shall hereafter be laid out across such canal, it shall be the duty of said corporation to make sufficient bridges across said canal, and to keep them in good repair.

By section 6 the company is authorized to erect and forever maintain such canal and locks as shall be necessary around any dam constructed by it. By section 9, for the purpose of reimbursing the corporation in part for the cost and expense of keeping the locks and canals in repair, it is authorized to levy tolls.

The original charter has been amended by various acts, but the nature of the corporation has not been changed and its powers have not been altered in such a manner as to affect the question now presented.

While the corporation is authorized by its charter to use the water power which it creates, for the purpose of manufacturing, and although it was made subject to the provisions of the thirty-eighth and forty-fourth chapters of the Revised Statutes, and has been in many respects given the powers and privileges and has been subjected to the liabilities of manufacturing corporations, nevertheless, it must, in view of the object of its incorporation and the powers vested in it by its charter, be considered as a canal company within the meaning of section 1 of the business corporation law. This view has recently been taken by the Supreme Court of the Commonwealth, in the case of a petition for tax abatement brought by the Essex Company against the city of Lawrence, 214 Mass. 79, 87. In that case it was said by the chief justice: —

It has been faintly argued that R. L., c. 14, § 42, was repealed by St. 1903, c. 437, § 95. But this is not so, for the reason among others that c. 437, according to § 1, does not apply to a canal corporation, which the petitioner is in some aspects of its charter duties.

In my opinion the corporation is to be considered as excluded from the provisions of the business corporation law also for the reason that it is a corporation having the right to take or condemn land or to exercise franchises in public ways granted by the Commonwealth, or by any county, city or town. The corporation was given authority by section 3 of its charter, above quoted, to take or condemn land, and since I have no information that at the time when the business corporation law went into effect the corporation had entirely exhausted its powers to take land, I must assume that at the time when that law took effect this corporation was still a corporation having the right to take land.

In my opinion, therefore, the Essex Company is not a corpo-

ration of the classes enumerated in section 1 of chapter 437 of the Acts of 1903 as subject to the provisions of that act, and is therefore not a domestic business corporation within the meaning of that term as used in St. 1910, c. 456.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Weights and Measures — Weighing and measuring Devices for Hire or Reward — Testing and sealing Gas or Electric Light Meters.

Gas or electric light meters are not measuring devices within the meaning of St. 1909, c. 412, § 1, that "the provisions of chapter sixty-two of the Revised Laws relating to the adjustment, testing and sealing of weights, measures and balances shall apply to all weighing and measuring devices used for the purposes of weighing and measuring for hire or reward."

SEPT. 3, 1913.

THURE HANSON, Esq., *Commissioner of Weights and Measures.*

DEAR SIR:— Under date of August 25 you requested my opinion as follows:—

I would respectfully refer you to section 1, chapter 412, Acts of 1909, which reads as follows:—

"The provisions of chapter sixty-two of the Revised Laws relating to the adjustment, testing and sealing of weights, measures and balances shall apply to all weighing and measuring devices used for the purposes of weighing and measuring for hire or reward."

Will you kindly advise if in your opinion a gas or electric light meter would be a measuring device in the meaning of this section?

In my opinion your inquiry should be answered in the negative.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Railroad Corporation — Board of Railroad Commissioners — Certificate that Requirements of Law Preliminary to Incorporation have been complied with — Revision by Court or Other Tribunal — Description of Route in Agreement of Association — Certificates of Agreement as to Route in Cities and Towns — Hampden Railroad Corporation.

Where the Board of Railroad Commissioners, under the provisions of St. 1906, c. 463, Part II., § 24, has duly certified that the requirements of such chapter preliminary to the incorporation of a railroad

corporation under general laws have been complied with, the decision of such Board in the premises should not be considered as subject to revision by any other executive or administrative board or commission.

The powers vested in a railroad corporation organized under general laws with respect to fixing the route of its railroad are to be determined not only from the description of such route contained in its certificate of organization, but also from the certificates fixing the route in the several cities and towns through which such railroad is to pass, as provided for in St. 1906, c. 463, Part II., §§ 20-24, inclusive. The Hampden Railroad Corporation may, therefore, construct its railroad upon the route shown to be fixed by the certificates annexed to the agreement of association on file in the office of the Secretary of the Commonwealth in accordance with the provisions of section 24; and the description of the route contained in such agreement of association, so far as it is not required by law and is inconsistent with the route fixed under authority of sections 20 and 21, may be disregarded.

SEPT. 15, 1913.

HON. FRED J. MACLEOD, *Chairman, Public Service Commission.*

DEAR SIR:— You have requested my opinion upon the question whether, in view of the facts contained in a statement submitted by you, the Hampden Railroad Corporation has kept within the powers conferred upon it by its charter and the laws of the Commonwealth so that the Public Service Commission, acting under St. 1913, c. 784, § 16, may lawfully approve an issue of bonds by that corporation to the amount of \$2,500,000, to provide means for funding its floating debt incurred in the construction and equipment of its railroad, the proposed bonds to be secured by a mortgage of the railroad, its equipment, franchises and all other property now owned by it or hereafter acquired.

The facts submitted by you as bearing upon the question are as follows:—

Acting under St. 1906, c. 463, Part II., §§ 13-28, the associates forming the Hampden Railroad made an agreement of association, dated June 1, 1910. Copies of this agreement were published as required by section 16 of the statute.

On Aug. 4, 1910, the directors named in the agreement of association petitioned the Railroad Commissioners, under section 18, for a certificate that public convenience and necessity required the construction of a railroad as proposed in said agreement and in the petition and as shown upon certain maps, plans and profiles. These maps, plans and profiles were filed with the petition, together with an estimate of cost and a description of

the proposed route of the railroad. Upon this petition an order of notice by publication and service of copy was issued by the Board of Railroad Commissioners on Aug. 4, 1910. After hearing on the petition and after a contest the Railroad Commissioners, on Sept. 20, 1910, issued a certificate of public convenience and necessity, under section 18. In this certificate the Board called attention to the fact that two features of the proposed railroad remained open for discussion; one was the location in the city of Chicopee, and the other the location in the city of Springfield. It was stated that since the route through the city of Chicopee, as proposed, was subject to local objection, the Board would take note of the suggestion of the municipal authorities of the city of Chicopee if it became the duty of the Board of Railroad Commissioners to fix the route in that city. It stated that if it became the duty of the Board to fix the route in the city of Springfield, the Board in fixing the route in that city would take note of the river front improvements contemplated by the city.

Subsequently, the incorporators, acting under sections 19 and 20 of the statute, agreed with the towns of Ludlow, Belchertown and Palmer upon the routes of the railroad in those towns, and in October, 1911, the selectmen of these towns certified the routes agreed upon. The routes so fixed in these three towns were substantially the same as the routes shown with map accompanying the petition for a certificate of exigency.

On Sept. 30, 1910, the directors of the Hampden Railroad submitted to the aldermen of the city of Springfield the map and engineer's report which had been submitted to the Railroad Commissioners at the time of the filing of the petition for a certificate of exigency, and also on September 30 petitioned the board of aldermen asking it to agree with the directors upon the route and location of the tracks of the railroad in Springfield, under sections 19 and 20. The matter was laid upon the table on Oct. 10, 1910.

At a meeting of the aldermen of Springfield on April 3, 1911, the petition was taken from the files and it was voted to give a hearing to all persons interested, on April 17. On April 17, 1911, at the hearing on the petition Ralph D. Gillett appeared on behalf of the petitioner and stated that the plan of the corporation had been changed somewhat and that under the proposed plan the location asked for would not go through or across any land owned by the city of Springfield. A revised plan of the lo-

cation was presented. No one appeared in opposition. The hearing was closed, and on motion of Alderman Wight it was voted that the location be granted as prayed for.

The city clerk of Springfield issued a certificate under date of April 17, 1911, as follows: —

I hereby certify that at a meeting of the board of aldermen of the city of Springfield, Commonwealth of Massachusetts, held April 17, 1911, after a hearing duly posted and advertised as required by law, it was voted in the matter of the petition of the Hampden Railroad for a location in the city of Springfield that said location be granted as prayed for.

Attest:

(Signed) E. A. NEWELL,
City Clerk.

The new plan referred to in this vote was a plan showing the location in Springfield upon which the railroad has been actually constructed, but a location different from the location shown upon the map filed with the Railroad Commissioners with the petition for a certificate of exigency.

Between the date when the original petition was filed with the aldermen of Springfield and the date when the new plan was finally acted upon, the New York Central Railroad, as lessee of the Boston & Albany Railroad, had made an agreement in February, 1911, with the New York, New Haven & Hartford Railroad that such through routes over the lines of the New Haven system and Boston & Albany Railroad as the public interest might require should be established. After this agreement, but before July, 1911, Mr. Mellen suggested the possibility of establishing a connection of the Hampden Railroad with the Boston & Albany at Athol Junction and of making arrangement for the use of the Boston & Albany tracks between Athol Junction and Springfield. The suggestion was favorably received but no actual and formal agreement concerning the subject was made until July 10, 1912, when an agreement was made between the New York Central and the Boston & Maine for the use of these tracks.

In the city of Chicopee the associates were unable to agree with the aldermen upon a route in that city, whereupon, acting under section 21, on Feb. 10, 1911, they petitioned the Board of Railroad Commissioners to fix the route in that city. An order of notice was issued upon this petition, and on June 2, 1911, the

Board of Railroad Commissioners fixed the route of the Hampden Railroad in Chicopee.

No route was ever fixed in the city of Holyoke. A petition was, however, brought by the Hampden Railroad to the aldermen of Holyoke, dated Sept. 30, 1910, asking the Board to agree upon a route in Holyoke. This petition was referred Oct. 4, 1910, to a committee, and no further action was ever taken upon it.

On May 8, 1911, the directors of the corporation petitioned the Board of Railroad Commissioners for a certificate of compliance, under section 24, which provides in substance that when it is shown to the satisfaction of the Railroad Commissioners that the requirements of the chapter preliminary to the incorporation of a railroad corporation have been complied with, and that payment for all damages is adequately guaranteed, the clerk of the Board shall, on its order, annex to the agreement of association a certificate stating that such requirements have been complied with. This certificate was issued by the clerk upon order of the Board on June 2, 1911.

On the same date, June 2, 1911, the agreement of association, with its certificates annexed, was filed in the office of the Secretary of the Commonwealth, and a certificate of incorporation was issued in accordance with the provisions of section 24 of the statute.

The capital stock of the corporation as fixed in the agreement of association was \$1,000,000. On July 20, 1911, it was voted to increase the capital stock to \$1,400,000.

On Aug. 17, 1911, the corporation filed with the Board a petition for a certificate preliminary to location, under section 71 of the statute, and on the same day the clerk of the Board, by order of the Board, gave a certificate under this section.

On Dec. 5, 1912, the corporation petitioned the Board, under section 65 of the statute, to determine that capital stock to the amount of \$1,400,000 was reasonable and necessary for the construction and equipment of its railroad. On this petition an order of notice was issued by publication in the newspapers, and on Dec. 13, 1912, the Board approved the issue of this stock to this amount at par, the proceeds "to be applied only toward the payment and capitalization, necessary cost of building and equipping its railroad, and the purchase of property necessary for its operation."

On Oct. 8, 1912, the corporation petitioned the Board, under

section 78 of the statute, and under St. 1912, c. 725, Part II., § 2, to prescribe the limits within which additional land might be taken by it within the city of Springfield, outside the limits of its route already fixed, for the purpose of obtaining additional land for depot and station purposes, etc. Upon notice duly published the Board, on Nov. 16, 1912, prescribed the limits as prayed for.

On June 3, 1913, the corporation filed its petition for a certificate preliminary to operation, under section 127 of the statute, and on June 18, 1913, the Board certified that "all laws relative to the construction of the Hampden Railroad have been complied with, and that the railroad appears to be in safe condition for operation."

From the facts stated it appears that on June 2, 1911, the Board of Railroad Commissioners, the predecessor of the present Public Service Commission, certified under St. 1906, c. 463, Part II., § 24, that the requirements of the chapter preliminary to the incorporation of a railroad corporation under general laws had been complied with. Section 24 provides as follows:—

When it is shown to the satisfaction of the board of railroad commissioners that the requirements of this chapter preliminary to the incorporation of a railroad corporation have been complied with, . . . the clerk of said board, upon its order, shall annex to the agreement of association a certificate stating that such requirements have been complied with. The directors shall thereupon file the agreement of association, with all the certificates annexed thereto, in the office of the secretary of the commonwealth; who, upon the payment to him of a fee of fifty dollars, shall receive and preserve the same in form convenient for reference and open to public inspection, and shall thereupon issue a certificate of incorporation . . .

In my opinion, it is clear from the provisions quoted that the Legislature intended that the Board of Railroad Commissioners should act as final arbiters upon the question whether the incorporators had complied with the requirements of the statute preliminary to incorporation, and that when that Board had certified that it had been shown to its satisfaction that the requirements of the law had been complied with, the Secretary of the Commonwealth, the incorporators, the investors and the public might rely upon the decision, and that all parties should be bound by the record.

It appears not to have been determined by the Supreme Judicial Court of this Commonwealth that the decision of the Board

upon this point is subject to revision by the court on a question of law. In the case of *Killy v. Railroad Commissioners*, 184 Mass. 310, at pages 311, 312, the court said:—

It is unnecessary to determine whether the decision of the Railroad Commissioners under the R. L., c. 111, § 46, upon the question whether the preliminary requirements of the chapter have been complied with is final, or is subject to revision by this court on questions of law.

The provisions of section 46 of chapter 111 of the Revised Laws are now incorporated in the provisions of St. 1906, c. 463, Part II., § 24. No adjudication upon the point appears to have been made in any later case arising under the statute.

In the absence of an adjudication that the decision of the Board upon this point is subject to revision in matters of law by the Supreme Judicial Court, it should not, in my opinion, be considered as subject to revision by any other tribunal. There is no occasion, therefore, to enter into a detailed discussion of all the provisions included within sections 13 to 28, and of the various things done for the purpose of complying with those provisions, and the request of the commission I do not construe as a request for a revision of all these matters. It must, of course, be presumed in favor of the various decisions and certificates of the Board of Railroad Commissioners that, acting as a public Board, it has been fully satisfied that the incorporators, in all acts requiring the approval of the Board, have acted in good faith; that the rights of the public and all parties interested in the proceedings have been protected by the Board so far as the statutes permit such protection; and that the interests of the public have been served by the manner in which the requirements of the chapter preliminary to incorporation have been complied with.

An opinion upon the question “whether upon the facts stated the Hampden Railroad has kept within the powers conferred upon it by its charter and the laws of the Commonwealth” involves, however, a determination of what powers have been conferred upon the corporation, and the consideration of that question must of necessity involve some discussion of the requirements of the statute preliminary to incorporation and of the manner in which those requirements have been complied with.

The question is made difficult chiefly through the form in which the original agreement of association was drawn.

Section 13 of the statute requires that the agreement of association shall state these facts with reference to the proposed location of the railroad: —

- (c) The termini of the railroad.
- (d) The length of the railroad as nearly as may be.
- (e) The name of each county, city and town in which the railroad is to be located.
- (f) The gauge of the railroad.

The agreement of association in this case contained the following statements: —

The termini of the proposed road are the city of Springfield and the city of Holyoke on the west, and near the village of Bondsville in the town of Palmer on the east, all in said county of Hampden. . . .

The length of the railroad as nearly as may be determined is twenty-five miles.

The said railroad is located, as above indicated, in the cities of Springfield, Chicopee and Holyoke and in the towns of Ludlow and Palmer, all in the said county of Hampden, and in the town of Belchertown, in the county of Hampshire.

These facts with reference to the location of the proposed railroad were all that the statute required, but the agreement, after the statement quoted above with reference to termini, continues somewhat inartificially as follows: —

The road is more particularly described, as to termini, as follows: —

Commencing at a point in the city of Springfield, at or near the Connecticut River, north of Bridge Street, and extending thence northerly through the city of Springfield to the city of Chicopee, in said county, thence easterly through that part of Chicopee known as Chicopee Falls, thence crossing the Chicopee River and extending to and through the town of Ludlow, in said county, to the town of Belchertown, in the county of Hampshire, and in the said last mentioned town to a connection with a branch of the Boston & Albany Railroad known as the Athol Branch, and the New London Northern Railroad, and crossing the said branch of the Boston & Albany Railroad, and the said New London Northern Railroad, thence to a connection with the tracks of the Central Massachusetts division of the Boston & Maine Railroad at a point near the village of Bondsville, in said town of Palmer, together with an extension from a point in the indicated line in the city of Chicopee northwesterly through that portion of Chicopee known as Willimansett to the Connecticut River, thence across said river to and into said Holyoke.

It appears that although designated as a "more particular description as to termini," this latter description is in fact not a description as to termini but of the route between the termini as contemplated by the associates at the date of the agreement of association.

Since the statute provides that by agreement with municipal authorities or by order of the Board of Railroad Commissioners the route proposed by the incorporators may be altered and the location fixed anywhere within the limits of the city or town for which the respective municipal authorities are acting, it is evident that the Legislature did not contemplate the insertion of a detailed description of a route in the agreement of association, and such a description has no place in a carefully drawn agreement of association.

Section 24 prescribes the form for the certificate of incorporation, which includes a description of the railroad as in the agreement of association. It provides that the certificate of incorporation shall be signed by the Secretary of the Commonwealth and "shall have the force and effect of a special charter." This provision that the certificate shall have the force and effect of a special charter did not appear in the statutes regulating the incorporation of railroads under general laws until the enactment of St. 1906, c. 463, Part II. The form of the provision was undoubtedly copied from the business corporation law, St. 1903, c. 437, § 12, and, if the same construction were to be given to the provision in this statute as is given to the provision as it occurs in the business corporation law, there might be strong reason for holding that the Hampden Railroad Corporation had no authority to construct a railroad on a route other than that described in the agreement of association.

But in my opinion that provision cannot be so construed if proper effect is to be given to the other provisions of the railroad law.

Section 19 of the railroad statute provides that the directors shall submit to the board of aldermen of every city and to the selectmen of every town named in the agreement of association a map of the route as originally proposed. Section 20 provides that these boards of aldermen and selectmen may agree with the directors of the railroad "as to the said route or as to any route of the railroad in said city or town," and that such an agreement shall fix the route in the respective cities and towns. Section 21 provides that if the municipal authorities fail to agree with

the directors, the Board of Railroad Commissioners may fix the route in the city or town. Section 23 requires the directors, clerk and treasurer of the corporation to certify that it is intended "in good faith to locate, construct, maintain and operate the railroad *upon the route fixed.*" Section 24 requires the directors to file the certificates fixing the route, together with the agreement of association, in the office of the Secretary of the Commonwealth, and requires the Secretary of the Commonwealth to keep these certificates annexed to the agreement of association "in form convenient for reference and open to public inspection."

It is clear from these provisions that the powers conferred upon a corporation are not to be ascertained solely by inspection of the certificate of incorporation. They are conferred partly through certificates fixing the route, given under authority of sections 20 and 21 of the statute. These certificates are to be read with the certificate of incorporation, for the purpose of ascertaining upon what route the corporation is authorized to construct its railroad.

The jurisdiction of the aldermen of cities and of the selectmen of towns is, of course, confined to their respective cities and towns, but within these limits they are, under the terms of this statute, the guardians of the interests of their municipality, and they may agree upon the route as they see fit in their own municipality, provided only the route is consistent with the description of the road required by law to be contained in the agreement of association, consisting of the statement of the termini, the approximate length of the road, and the counties, cities and towns through which the road is to pass.

In my opinion the superfluous and inartificial description of the proposed route of the railroad is not to be construed either as abridging the rights of the municipal authorities to fix a route different from that so described, or as depriving the incorporators of the rights acquired by stating in the agreement of association all that the statutes specifically required.

This view is confirmed by an examination of the provisions with reference to incorporation by special charter, which differ from those with reference to incorporation under general laws. Sections 11 and 12 provide, with reference to special charters, that the railroad shall be confined by the special charter within the limits indicated by the notice given upon its petition, and that the route of the railroad established by special charter shall

be fixed "according to the provisions of sections 20 and 21, *except so far as they may have been fixed by special statute.*" The language of these sections indicates that in this act, when the Legislature has meant to limit the exercise of the authority vested in the local boards, under sections 20 and 21, it has so limited it by apt provision.

In my opinion a fair construction of the statute requires me to conclude that the Legislature has left the matter of the route in elastic form, and has given to the municipal boards powers which amount to authority to amend the charter of the railroad in matters concerning the route, provided only they keep within the outside limits of the route stated in the agreement of association, namely, the termini, and the counties, cities and towns in which the road is located.

The provisions of section 76 also appear to confirm this view. That section provides that a railroad corporation, having taken land for its railroad, may vary the direction of said railroad in the city or town in which the land is situated, "but it shall not locate any part thereof outside the limits of the route fixed under the provisions of sections twenty and twenty-one, *without the consent in writing of the board of aldermen or selectmen*, if it was fixed under the provisions of section twenty, or of the board of railroad commissioners if it was fixed under the provisions of section twenty-one." Under the earlier provisions of law upon which this section is based the route could be varied only within the limits fixed by the act of incorporation. Under the present section the route may be varied not only from the route originally proposed under authority of sections 20 and 21, but also from the route fixed under sections 20 and 21, by consent of the board of aldermen or selectmen in writing.

I am led to the conclusion, therefore, that the Hampden Railroad Corporation has the right, under its charter and the laws of the Commonwealth, to build its road upon the route shown to be fixed by the certificates on file in the office of the Secretary of the Commonwealth, annexed to the agreement of association; and the description of the route contained in the agreement of association, so far as it is not required by law and is inconsistent with the route fixed under authority of sections 20 and 21, is, in my opinion, to be disregarded.

Among the acts stated as having been done by the corporation since the time when the commission certified that all require-

ments of the statutes preliminary to incorporation had been complied with, I find none which the corporation was not authorized to do by its charter and the laws of the Commonwealth.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Eggs — Cold Storage — Sale at Retail upon Order — Delivery in Marked Container.

The provision of St. 1913, c. 538, § 1, that whenever eggs that have been in cold storage are sold at retail, or offered or exposed for sale, the basket, box or other container in which the eggs are placed shall be marked plainly and conspicuously with the words 'cold storage eggs,' requires that the basket, box or other container in which such eggs are placed when delivered by a retail dealer to a consumer, upon orders taken at the home of the consumer, or by telephone, where such consumer does not have an opportunity to see such eggs in a marked container at the store, shall be marked with the words "cold storage eggs."

SEPT. 24, 1913.

MARK W. RICHARDSON, M.D., *Secretary, State Board of Health.*

DEAR SIR: — You have requested my opinion upon the question whether the provisions of St. 1913, c. 538, require that the basket, box or other container in which eggs are placed when delivered by a retail dealer in eggs to a consumer, upon orders taken at the home of the consumer, or by telephone, or by any other method by which the consumer does not have an opportunity to see the eggs in a marked container in the store, shall be marked with the words "cold storage eggs."

St. 1913, c. 538, § 1, provides as follows: —

Whenever eggs that have been in cold storage are sold at retail, or offered or exposed for sale, the basket, box or other container in which the eggs are placed shall be marked plainly and conspicuously with the words "cold storage eggs", or there shall be attached to such container a placard or sign having on it the said words. If eggs that have been in cold storage are sold at retail or offered or exposed for sale without a container, or placed upon a counter or elsewhere, a sign or placard, having the words "cold storage eggs" plainly and conspicuously marked upon it, shall be displayed in, upon or immediately above the said eggs; the intent of this act being that cold storage eggs sold at retail or offered or exposed for sale shall be designated in such a manner that the purchaser will know

that they are cold storage eggs. The display of the words "cold storage eggs", as required by this act, shall be done in such a manner as is approved by the state board of health.

For the purpose of preventing evasion of the requirements of the statute through divergent interpretations of its provisions, the Legislature expressly stated the intent of the law to be that cold-storage eggs *sold or offered or exposed for sale* at retail should be designated in such manner as to give the purchaser notice of the fact that they are cold-storage eggs. If a purchaser should not go to the store to make his purchase, obviously, the expressed intent of the law would not be satisfied if the container in which the eggs were delivered were not marked in such a manner as to give him notice. The construction which requires the container in which the eggs are delivered to the consumer so ordering the eggs to be marked with the words "cold storage eggs," is, therefore, not only demanded by the words of the first sentence of the section, which require not only that the container of eggs *which are offered or exposed for sale* but also the container of eggs *which are sold* shall be marked plainly and conspicuously, but it is also the only construction which gives effect to the clause stating the intent of the law.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Boards of Health — Articles of Food — Sale — Rules and Regulations — State Board of Health — Approval — Regulation of Sale of Milk.

The provision of St. 1912, c. 448, amending R. L., c. 56, § 70, that "boards of health . . . may make and enforce reasonable rules and regulations, subject to the approval of the state board of health, as to the conditions under which all articles of food may be kept for sale or exposed for sale, . . ." must be construed in connection with the original provision of section 70, that "boards of health . . . may inspect the carcasses of all slaughtered animals, and all meat, fish, vegetables, produce, fruit or provisions of any kind found in their cities or towns" and "if, on such inspection, it is found that such carcasses or articles are tainted, diseased, corrupted, decayed, unwholesome or, from any cause, unfit for food, the board of health shall seize the same and cause it or them to be destroyed forthwith or disposed of otherwise than for food," and the application of the words "all articles of food" in the amendment must be limited to the articles of food enumerated in the original provision. It follows, therefore, that such provisions do not authorize the regulation of the sale of milk.

SEPT. 29, 1913.

MARK W. RICHARDSON, M.D., *Secretary, State Board of Health.*

DEAR SIR:— You have requested my opinion as to whether milk is to be considered an article of food as affected by the provisions of chapter 448 of the Acts of 1912, and whether, therefore, any rules and regulations made concerning the sale of milk must not be duly advertised and submitted to the State Board of Health for its approval before being enforced.

Chapter 448 of the Acts of 1912 is an amendment of Section 70 of chapter 56 of the Revised Laws, and said section as so amended reads as follows:—

Boards of health of cities and towns, by themselves, their officers or agents, may inspect the carcasses of all slaughtered animals and all meat, fish, vegetables, produce, fruit or provisions of any kind found in their cities or towns, and for such purpose may enter any building, enclosure or other place in which such carcasses or articles are stored, kept or exposed for sale. If, on such inspection, it is found that such carcasses or articles are tainted, diseased, corrupted, decayed, unwholesome or, from any cause, unfit for food, the board of health shall seize the same and cause it or them to be destroyed forthwith or disposed of otherwise than for food. All money received by the board of health for property disposed of as aforesaid shall, after deducting the expenses of said seizure, be paid to the owner of such property. If the board of health seizes or condemns any such carcass or meat for the reason that it is affected with a contagious disease, it shall immediately give notice to the board of cattle commissioners of the name of the owner or person in whose possession it was found, the nature of the disease and the disposition made of said meat or carcass.

Boards of health of cities and towns may make and enforce reasonable rules and regulations, subject to the approval of the state board of health, as to the conditions under which all articles of food may be kept for sale or exposed for sale, in order to prevent contamination thereof and injury to the public health. Before the board of health of any city or town submits such rules and regulations to the state board of health for approval it shall hold a public hearing thereon, of which notice shall be given by publication for two successive weeks, the first publication to be at least fourteen days prior to the date of the hearing, in a newspaper published in such city or town, or, if none is so published, in a newspaper published in the county in which such city or town is located. Any person affected by such rules and regulations, in the form in which they are presented to the state board of health for approval, may appeal to the said board for a further hearing, and said board shall not grant its ap-

proval to rules and regulations concerning which such an appeal has been taken until it has held a public hearing thereon, advertised in the manner specified above in this section with reference to hearings before boards of health in cities and towns.

In the original provisions of Revised Laws, chapter 56, the enactments concerning milk are contained in sections 51 to 69, inclusive. Section 70 comes under the heading "Meat and Provisions," and is intended to cover other articles than milk.

In my opinion, although the words "all articles of food" are broad enough in a general sense to include milk, as used in this particular enactment, the intention is to limit the application of these words to the articles of food properly coming within the scope of the original section. I do not think its application is to be extended to apply to milk, and I, therefore, answer your inquiry in the negative.

Very truly yours,

JAMES M. SWIFT, *Attorney-General*.

Schools — Attendance — Children under Sixteen Years of Age — Employment Certificate — Transcript of Birth Certificate — Fees.

The provision of St. 1913, c. 779, § 18, amending St. 1909, c. 514, § 60, as amended by St. 1910, c. 257, § 4, that "no fee shall be exacted for an employment certificate or for any of the papers required by this act," in connection with the employment of children under sixteen years of age, is not applicable to birth certificates or duly attested transcripts thereof made by registrars of vital statistics, city or town clerks, or other officers charged with the duty of recording births.

Oct. 8, 1913.

ROBERT N. TURNER, Esq., *Acting Deputy Commissioner of Labor*.

DEAR SIR:— On behalf of the State Board of Labor and Industries you have inquired whether or not the provisions of St. 1913, c. 779, § 18, amending St. 1909, c. 514, § 60, as previously amended by St. 1910, c. 257, § 4, that "no fee shall be exacted for an employment certificate or for any of the papers required by this act," is applicable to birth certificates or duly attested transcripts thereof made by registrars of vital statistics, city or town clerks, or other officers charged with the duty of recording births.

St. 1913, c. 779, § 1, provides that —

every child under sixteen years of age who has not received an employment certificate as provided in this act . . . shall attend a public day school . . .

Section 16, which amended St. 1909, c. 514, § 58, as amended by St. 1911, c. 269, by striking out said section and inserting among other things the following, provides: —

The person issuing employment certificates shall in each case, before issuing a certificate, receive, examine, approve and file the following papers, duly executed: —

(1) A pledge or promise signed by the employer or by an authorized manager or superintendent, setting forth the character of the employment, the number of hours per day during which the child is to be regularly employed and the name and address of the employer, in which pledge or promise the employer agrees to employ the child in accordance with the provisions of this act, and to return the employment certificate as provided in section fifty-seven.

(2) The school record of such child, properly filled out and signed as hereinafter provided.

(3) A certificate signed by a school or family physician, or by a physician appointed by the school committee, stating that the child has been thoroughly examined by said physician and, in his opinion, is in sufficiently sound health and physically able to perform the work which the child intends to do.

(4) Evidence of age showing that the child is fourteen years of age, which shall consist of one of the following proofs of age:

(a) A birth certificate, or a duly attested transcript thereof, made by a registrar of vital statistics or other officer charged with the duty of recording births.

(b) A baptismal certificate, or a duly attested transcript thereof, showing the age and date of baptism of the child.

(c) In case none of the aforesaid proofs of age is obtainable, and only in such case, the person issuing employment certificates may accept in lieu thereof a passport or a duly attested immigration record, or transcript thereof, showing the age of the child: *provided*, that it shall appear to the satisfaction of said person that the same is good and sufficient evidence of the child's age.

(d) In case none of the aforesaid proofs of age is obtainable, and only in such case, the person issuing employment certificates may accept in lieu thereof a record of age as given on the register of the school which the child first attended in the commonwealth: *provided*, that such record was kept for at least two years during the time when such child attended school.

(e) In case none of the aforesaid proofs of age is obtainable, and only in such case, the person issuing employment certificates may receive the signed statement of the school physician, etc.

Said section 18 provides, in part, as follows:—

The employment certificate required by this act shall . . . certify that . . . all the papers required by section fifty-eight have been duly examined, approved and filed and that the conditions and requirements for issuing an employment certificate have been fulfilled. It shall state the grade last completed by said child. Every such certificate shall be signed in the presence of the person issuing the same by the child in whose name it is issued. It shall state the name of the employer for whom, and the nature of the employment in which, the certificate authorizes the child to be employed. It shall bear a number, show the date of its issue and shall be signed by the person issuing it. No fee shall be exacted for an employment certificate or for any of the papers required by this act. Duplicate employment certificates shall not be issued until it shall appear to the satisfaction of the person authorized to issue certificates that the original certificate has been lost. . . .

If the provision that “no fee shall be exacted for an employment certificate or for any of the papers required by this act” is to be construed broadly, it would probably apply to all of the papers required under the provision of section 16 above quoted, including the papers specified as sufficient evidence for showing that a child is fourteen years of age, if such papers can be said to be required, but, for the reasons hereafter stated, I am of opinion that it cannot be so broadly construed.

This provision with respect to fees obviously applies to all records and papers required by said section 60, as amended by section 18 of chapter 779, and would doubtless apply to certificates or other papers signed by officials connected with the schools of any city or town, and required under any of the provisions of the act. It could not, however, apply either to the certificate of the family physician [see (3)], or to a baptismal certificate, or a duly attested transcript thereof [see (6)], or to a passport, or a duly attested immigration record, or transcript thereof, or other official or religious record of a child's age [see (c) under (4)], relating to evidence of age, for the reason that the Legislature has no authority to compel a physician in private practice to perform gratuitous services or the keeper of private records to supply transcripts thereof without

compensation. Neither has it the authority to forbid the Federal authorities to charge fees for copies of their records relating to immigration. The Legislature has authority to require the issuance of certificates by public officials, such as the birth certificates in question, or copies thereof, without compensation. This can easily be declared in unmistakable language, but it is not made plain in the present legislation. I am led to the conclusion that the exemption from fee does not apply to fees for certificates for which there is other existing authority.

Moreover, it may be doubted whether a certificate by a family physician is required, in the sense in which the word is used in section 18, in the provision under discussion. It is only one of several alternatives, any one of which would satisfy the requirements, and the same is true of the evidences of age required under paragraph (4). Each of the subheads, including that in which a birth certificate, or a duly attested transcript thereof, is to be found, is an alternative, and no one of them is specifically required.

While the question is not entirely free from doubt, I am led to the opinion that birth certificates, or transcripts thereof, are not required to be furnished without the fee now provided by law therefor, and that for this reason also your specific inquiry should be answered in the negative.

Very truly yours,

JAMES M. SWIFT, *Attorney-General*.

Commonwealth — Employees — Retirement — Head of Department — Chairman of Board or Commission.

The chairman of a Board or commission, consisting of three or more members appointed by the Governor, with the consent of the Council, for terms of years and receiving salaries from the Commonwealth, is not the head of a department within the meaning of St. 1911, c. 532, § 3, par. (4), providing that "any member who reaches the age of sixty years and has been in the continuous service of the commonwealth for a period of fifteen years immediately preceding may retire or be retired by the board of retirement upon recommendation of the head of the department in which he is employed . . ."

Mr. LLOYD A. FOYE, *Secretary, Board of Retirement*. OCT. 20, 1913.

DEAR SIR: — In behalf of the Board of Retirement you have requested my opinion upon a question which has arisen from the administration of the provisions of St. 1911, c. 532, entitled "An

Act to establish a retirement system for the employees of the commonwealth.”

That statute, as amended by St. 1912, c. 363, defines “employees” as “permanent and regular employees in the direct service of the commonwealth or in the metropolitan district service, whose only or principal employment is in such service.”

By section 3 of the act a retirement association is established and membership in that association is made optional for all employees in the service of the Commonwealth on Jan. 1, 1912, and compulsory for persons under fifty-five years of age thereafter entering the service of the Commonwealth who were not entitled to a pension from the Commonwealth for any reason other than membership in the association.

Section 3 also provides in the paragraph numbered (4), as follows:—

Any member who reaches the age of sixty years and has been in the continuous service of the commonwealth for a period of fifteen years immediately preceding may retire or be retired by the board of retirement upon recommendation of the head of the department in which he is employed, and any member who reaches the age of seventy must so retire.

There are in the Commonwealth a number of commissions consisting of three or more members who were appointed by the Governor, with the consent of the Council, for terms of years and who receive salaries from the Commonwealth,—the chairman of the commission sometimes receiving a salary in excess of that received by the other members of the commission by virtue of being chairman. As persons on the pay roll of the Commonwealth, employed in the direct service of the Commonwealth, whose only or principal employment is in such service, certain members of such commissions become members of the retirement association organized under the provisions of section 3.

The question upon which you request my opinion is, whether the chairman of such a commission is to be considered, within the meaning of paragraph (4), above quoted, “the head of the department” in the sense that he can recommend the retirement of one of the other members of the commission of which he is chairman.

In my opinion the chairman of such a commission as those referred to is not, within the meaning of the provision quoted, “the head of the department.”

The members of such commissions are, in contemplation of law, equal in their jurisdiction and powers. The fact that the Board is organized, for convenience in the transaction of business, with a chairman as presiding officer does not transform the Board into a single-headed department and does not constitute the chairman head of the department in the sense that he may recommend the retirement of his fellow members of the commission.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

*Automobiles owned by the Commonwealth — Negligence of
Chauffeur in the Employment of the Commonwealth —
Personal Liability — Members of Boards or Commissions.*

Where an automobile is under the care and control of a State Board or commission or the members thereof and is used by such commission or by its members or executive officers or agents, with the consent of the commission, for the purpose of traveling upon official business, such commission or members, officers or agents are not personally liable for injury caused by such automobile to persons or property through the negligent conduct of the chauffeur if such commission, members or officers or agents at the time of using such automobile are engaged in the proper performance of their official duties and are not themselves negligent or otherwise at fault in their direction of such chauffeur in such a manner as to contribute to the cause of the injury.

Oct. 22, 1913.

GEORGE LYMAN ROGERS, Esq., *Secretary, Metropolitan Park Commission.*

DEAR SIR:— In behalf of the Metropolitan Park Commission you have requested my opinion upon certain questions arising from the following facts as stated by you:—

The Metropolitan Park Commission has under its care and control an automobile used by the commission, or members thereof, or by the secretary or engineer with the consent of the commission, for the purpose of traveling on official business of the commission. Whenever the commission or members thereof, or the secretary or the engineer, travel in this automobile, the machine is driven by a chauffeur employed by the commission and paid out of its maintenance appropriation. In such cases the chauffeur is subject to the direction and control of the member or members of the commission, or of the secretary or engineer, as the case may be, for the time being, riding in the machine.

The questions submitted by you are as follows:—

(1) If the commission or any member thereof should be traveling on official business in said automobile, driven by such a chauffeur subject to the general direction of the commission or such member thereof, and, through the negligent conduct of the chauffeur, injury should be caused by such automobile to person or property, would the commission, or any member or members thereof, traveling as stated at the time, be personally liable for such injury?

(2) If the secretary or the engineer should be traveling on official business in said automobile, driven by such a chauffeur, subject to the general direction of the secretary or engineer, as the case might be, and, through the negligent conduct of such chauffeur, injury should be caused by such automobile to person or property, would the secretary or engineer, traveling as stated, under the circumstances be personally liable for such injury?

I infer from the statement that the automobile mentioned is "under the care and control" of the commission, that it is an automobile paid for and owned by the Commonwealth. I understand also that the chauffeur is an employee of the Commonwealth whose salary is paid from the treasury of the Commonwealth.

My opinion upon your first question is that the commission or members thereof are not personally liable for injury caused by the Commonwealth's automobile to persons or property through the negligent conduct of the chauffeur if the commission or members thereof traveling at the time are engaged in the proper performance of their official duties and are not themselves negligent or otherwise at fault in their direction of the chauffeur in such a manner as to contribute to the cause of the injury.

My opinion upon your second question is that the secretary or engineer is not personally liable for injury caused by the Commonwealth's automobile to persons or property through the negligent conduct of the chauffeur if the secretary or engineer traveling at the time is engaged in the proper performance of his official duties and is not himself negligent or otherwise at fault in the direction of the chauffeur in such a manner as to contribute to the cause of the accident.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Pharmacy Law — Business of Pharmacy — Dry Goods and Mercantile Corporation — Lease of Floor Space to Registered Pharmacist — Ownership of Stock in Trade.

Where a corporation, organized to carry on a dry goods and mercantile business, leases floor space to a registered pharmacist to conduct the business of pharmacy upon the condition that the leased premises shall be held by the lessee "for and during such time as he shall continue to run the drug store therein, yielding and paying therefor as rent such proportion of the gross profits arising from the operation, conduct and maintenance of said store as shall be agreed to between said lessor and said lessee," the lessor retaining the ownership of all stock in trade, and the only interest of the registered pharmacist being that of lessee, such corporation is engaged in retailing, compounding for sale or dispensing for medicinal purposes drugs and medicines, within the provisions of R. L., c. 76, § 18, as amended by St. 1913, c. 720, § 1, that "whoever, not being registered as aforesaid, retails, compounds for sale or dispenses for medicinal purposes drugs, medicines, chemicals or poisons, . . . shall be punished by a fine of not more than fifty dollars, . . ." and that "no unregistered co-partner or unregistered stockholder in a corporation doing a retail drug business shall hereafter be actively engaged in the drug business," and, not being registered, is unlawfully engaged therein.

OCT. 27, 1913.

PETER J. MCCORMICK, Esq., *Secretary, Board of Registration in Pharmacy.*

DEAR SIR: — In behalf of the Board of Registration in Pharmacy you have requested my opinion upon questions arising from the following facts as stated by you: —

The Shepard Norwell Company, incorporated to do a dry goods and mercantile business, desires to do a drug business in the following manner, — to lease space in its place of business to a registered pharmacist under the accompanying form of lease, Shepard Norwell Company owning the stock in said space so leased, the registered pharmacist owning nothing. They desire said pharmacist to procure a sixth class license.

The form of lease submitted with this statement provides that the Shepard Norwell Company shall lease space in its Boston store to the lessee —

To have and to hold the same to the said lessee (but not to his executors, administrators or assigns) for and during such time as he shall continue to run the drug store therein.

Yielding and paying therefor as rent such proportion of the gross profits arising from the operation, conduct and maintenance of said store as shall be agreed to between said lessor and said lessee.

The lease also contains the following clauses:—

The lessee further covenants that he will not advertise said store, or the business therein conducted, except in such advertisements as shall first be approved by the lessor, and then only in connection with other advertisements of the lessor, or in such places, newspapers, periodicals and mediums as the lessor shall designate.

The lessee further covenants that he will as such lessee in the conduct of such drug store comply with such rules and regulations as to the management and upkeep thereon as the lessor shall lay down for the general guidance of its store conducted at the above number; and he will make no alterations in the leased premises without on each occasion first procuring the written consent of the lessor thereto; that the lessor and its agents and servants may at any time and from time to time enter and view the leased premises and make such repairs or alterations therein as shall be necessary.

The questions submitted by you are:—

1. Can the Board of Registration in Pharmacy recognize said drug store as being lawfully conducted?
2. Could a certificate for sixth class license be granted to the lessee of said space?

In my opinion both questions must be answered in the negative.

R. L., c. 76, § 14, as amended, requires that persons wishing to do business as pharmacists shall be examined and registered by the Board of Registration in Pharmacy. Section 18 of said chapter, as amended by St. 1913, c. 720, § 1, provides as follows:—

Whoever, not being registered as aforesaid, retails, compounds for sale or dispenses for medicinal purposes drugs, medicines, chemicals or poisons, except as provided in section twenty-three, shall be punished by a fine of not more than fifty dollars, but the provisions of this section shall not prohibit the employment of apprentices or assistants and the sale by them of any drugs, medicines, chemicals or poisons under the personal supervision of a registered pharmacist. No unregistered co-partner or unregistered stockholder in a corporation doing a retail drug business shall hereafter be actively engaged in the drug business. Every registered pharmacist carrying on the

drug business as proprietor or as manager shall cause his name to appear on every sign indicating or advertising his place of business and on every label used for medicinal preparations compounded in his place of business. The term "personal supervision" as used in the act shall mean that a registered pharmacist is in charge and present in the store.

In my opinion it is clear from an examination of the facts stated and the terms of the lease submitted that the Shepard Norwell Company would under such circumstances be engaged in retailing, compounding for sale or dispensing for medicinal purposes drugs and medicines.

The fact that the terms upon which the person who is to have supervision of the drug business is employed take the form of a lease, does not alter the essential fact that the business is owned and managed by the Shepard Norwell Company. Since that corporation is not registered in accordance with the provisions of law, its drug store could not be considered by the Board as being lawfully conducted.

Section 23 of chapter 100 of the Revised Laws, as amended by St. 1909, c. 261, authorizes the Board of Registration in Pharmacy to issue certificates to persons, stating that in the judgment of the Board they are proper persons to be intrusted with a sixth class license. Section 22 of the same chapter of the Revised Laws, as amended by St. 1913, c. 410, provides as follows:—

One or more licenses of the sixth class shall be granted annually by the licensing board of cities, or by the mayor and aldermen of cities having no such board, or by the selectmen of towns, to retail druggists or apothecaries who are registered pharmacists actively engaged in business on their own account, upon presentation to the licensing board of the certificate prescribed by the following section, if it appears that the applicant is a proper person to receive such license, and is not disqualified to receive it under the provisions of sections fifty-three and fifty-four. A registered pharmacist who owns stock of the actual value of at least five hundred dollars in a corporation which has been incorporated for the purpose of carrying on the drug business, and who conducts in person the business of a store of such corporation, shall be considered as actively engaged in business on his own account and as qualified to receive a license for such store.

In my opinion the lessee of the Shepard Norwell Company cannot be considered upon the facts stated to be a registered

pharmacist "actively engaged in business on his own account," and so to be qualified to receive such a license.

The fact that a drug business cannot lawfully be carried on under such circumstances as appear in this case, under existing law, appears to have been recognized by the Legislature in the enactment of St. 1913, c. 705, entitled "An Act to provide for registering and licensing stores for transacting retail drug business." That act provides that the Board of Registration in Pharmacy may issue permits to keep open stores for the transaction of a retail drug business to such persons, firms and corporations as the Board may deem qualified to conduct such a store. Since, however, this act by its terms does not take effect until the first day of January, 1914, its only bearing upon the questions presented is to confirm the view above expressed, that under existing law such a drug store would not be lawfully conducted.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

Commonwealth — Land and Buildings belonging to State Hospital — Trustees — Exclusion of Public from Use of Land.

The Board of Trustees of the Worcester State Hospital have the right to prevent persons from entering upon the property of the Commonwealth devoted to the purposes of such hospital for any purpose for which such persons are not authorized by law to enter upon the premises, and if, in the judgment of such trustees, it is for the best interest of such institution that the public, unless entering for certain specified purposes, should be excluded from the land and buildings belonging thereto, they are authorized to exclude it.

Nov. 1, 1913.

T. HOVEY GAGE, Esq., *Chairman, Trustees of Worcester State Hospital.*

DEAR SIR:— As chairman of the Board of Trustees of the Worcester State Hospital you have requested my opinion as to certain rights and duties of that Board. The questions submitted by you are as follows:—

1. Have we the right to prevent people coming on property of the Commonwealth used for the care of the State's wards?

2. If we have the right, is it our duty to prevent persons who come on for the purpose of getting, or being on the premises on legitimate business avail themselves of the opportunity to get, photographs of patients who happen to be outdoors?

In my opinion you clearly have the right as matter of law to prevent people from coming on the property of the Commonwealth devoted to the uses of the institution for any purposes for which they are not authorized by law to enter upon the premises.

The mere fact that the land and buildings of the institution are owned by the Commonwealth does not give to the general public the same rights which they have in a public park or common or recreation grounds.

The lands and buildings of the institution have been set apart by the Legislature representing the public for a certain specific use, — the care of the insane. Under the statutes of the Commonwealth the trustees of each institution for the insane have charge of the general interests thereof and are vested with the government of the institution. If, in the judgment of the Board of Trustees acting reasonably and in good faith, it is for the best interests of the institution and the inmates thereof that people should be excluded from the land and buildings of the institution unless entering for certain defined purposes, the trustees are not only authorized by law to exclude them but are bound in the proper performance of their duties to exclude them.

Your second question, so far as it is a question as to your rights, is answered by the reply to the first. Whether it is your duty to prevent the taking of photographs of patients who happen to be out-of-doors on the premises of the institution, is rather a question of policy than a question of law and is, therefore, not strictly a question upon which it is my official duty to advise. If my opinion upon this question will be of any assistance to you, however, I have no objection to stating that in my opinion no court would hold unreasonable a regulation by the trustees, and the public at large would not consider unjustified such action by the trustees, as would prevent photographs being taken for exhibition in the public press or other purposes of those who are so unfortunate as to be suffering from disordered minds, to the distress of their relatives and friends.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

*Insurance — Title Insurance — Guaranty Fund — Investment
— Mortgages — Stock in Trade — Trading Capital.*

A title insurance company organized under the laws of this Commonwealth may not use as ordinary trading capital the guaranty fund which is required to be created and maintained by St. 1907, c. 576, § 64, providing that every such corporation shall set apart and invest as a trust for the benefit of its policyholders not less than two-fifths of its capital to be applied only to the payment of losses and expenses incurred by reason of the guaranty or insurance contracts of the corporation and may not use as stock in trade the mortgages in which such fund is invested.

Nov. 21, 1913.

Hon. FRANK H. HARDISON, *Insurance Commissioner.*

DEAR SIR: — You have requested my opinion upon the question whether a title insurance company organized under the laws of this Commonwealth may trade in the mortgages in which its guaranty fund is invested, for the purpose of obtaining capital to carry on its business.

The guaranty fund of a domestic title insurance company is required to be created and maintained under St. 1907, c. 576, § 64, which provides as follows: —

Every such corporation shall set apart an amount not less than two fifths of its capital, and not less than one hundred thousand dollars in any case, as a guaranty fund, and shall invest it subject to the same limitations as are imposed upon the investment of the capital of domestic insurance companies, and shall issue no policy and make no contract of guaranty or insurance until such amount is so set apart and invested.

The principal of such guaranty fund shall be a trust for the protection of policy holders, and shall be applied only to the payment of losses and expenses incurred by reason of the guaranty or insurance contracts of the corporation. Whenever the corporation shall increase its capital, two fifths or a sufficient part of the increase shall be set apart and duly invested and added to the guaranty fund so that such fund shall always be not less in amount than two fifths of the entire capital.

If, by reason of losses or other cause, the guaranty fund is less than two fifths of the capital, the company shall make no further contract of guaranty or insurance until the fund is made good.

Section 37 of the same chapter, regulating the investment of the capital of domestic insurance companies, provides in paragraph numbered 4 that the capital of such companies may be

invested in loans upon improved and unincumbered real property in any State of the United States, provided that no loan on such property shall exceed 60 per cent. of its market value, and that fact shall be properly certified.

According to the statement of facts contained in your letter the title insurance company in question has a guaranty fund of the amount required by law, which is invested in mortgages of \$6,000 or less, and I infer from your letter and the oral statement accompanying it that the requirements of section 37 have been complied with, so that the investment is lawful in character.

In my opinion the company may not properly use its guaranty fund for trading purposes. The language of section 64, above quoted, is clear and unequivocal in the expression of the legislative intent that the fund shall not be used as ordinary trading capital, and that the mortgages in which the fund is invested shall not be used as stock in trade.

The statute provides that the company shall "set apart" a certain fund for guaranty purposes, thus segregating it from its active funds. It provides that the fund shall be "invested" subject to certain limitations, implying a permanency of investment inconsistent with speculative and active trading. It provides that "the principal of such guaranty fund shall be a trust for the protection of policy holders," and limits the application of the fund to the payment of losses and expenses incurred by reason of the guaranty or insurance contracts of the corporation, and it carefully guards the integrity of the fund.

The corporation is, of course, not to be considered as prevented by these provisions from making such changes in the mortgages in which the guaranty fund is invested as the interests of the beneficiaries of that fund may require. It is not only authorized but is required by these provisions to make changes in the investment if it is necessary to do so to prevent impairment of the security afforded by the fund. The essential point is that the statute requires that this fund shall be set apart as a trust fund for purposes of protection, and that it shall be administered in accordance with the character given it by the statute and not as active trading capital. See 1 Op. Atty.-Gen. 41.

Very truly yours,

JAMES M. SWIFT, *Attorney-General.*

INDEX TO OPINIONS.

	PAGE
Automobiles, negligence of chauffeur in employment of Commonwealth, personal liability of members of boards or commissions for,	103
Board of Railroad Commissioners, approval of regulations and restrictions upon street railways as common carriers of express matter and freight,	44
Railroad corporation, compliance with requirements of law, preliminary to incorporation, determination of route,	84
Boards of health, approval by State Board of Health of rules and regulations for the sale of articles of food; regulation of sale of milk,	96
Boston Elevated Railway Company, East Boston Tunnel tolls, constitutional law,	32
Canal company, distribution of tax assessed upon,	80
Cold-storage eggs sold at retail upon order in marked container,	95
Cold storage, limit of time for holding articles of food in,	8
Collateral Loan Company, approval of increase of capital stock by Commissioner of Corporations,	73
Commonwealth Pier, cancellation of lease to Old Colony Railroad Company,	11
Constitutional law, confirmation of appointment of administrative or executive officer by justices of Supreme Judicial Court,	52
Delegation of legislative power by submitting act creating judicial district to voters,	40
Exercise of police power in fixing hours of labor,	20
Grant to private individuals of right to control area between high and low water mark,	47
Regulation by cities and towns of width and grade of private ways,	15
Regulation of hours of labor of employees of street and elevated railway companies,	66
Sale of fruit, vegetables and nuts at retail by dry measure,	27
"Cost and expenses" incidental to construction of bridge over Weymouth Back River, apportionment of,	62
Deeds, mortgages and other instruments, minimum charge for recording,	51
East Boston Tunnel tolls, substitution of annual appropriation for,	32
Eggs, cold-storage, delivery in marked container,	95
Unfit for food, construction of statute prohibiting sale of,	57
Eminent domain, grant from Commonwealth of right to cultivate mollusks on flats between high and low water mark,	47
Employee of street or elevated railway company, hours of labor,	54
Employees of Commonwealth, retirement of; chairman of board or commission as head of department,	101
Express matter and freight, street railways as common carriers of; local regulations,	44
Fee, for transcript of birth certificate in connection with employment of child under sixteen years of age,	98
Minimum charge by register of deeds for recording instruments,	51
Flats, grant of, to private individuals for cultivation of mollusks, constitutional law,	47

	PAGE
Fruit, vegetables and nuts, constitutionality of restriction of sale of, at retail,	27
Gas or electric light meters as weighing and measuring devices for hire or reward,	84
Hampden Railroad Corporation, certificate of Board of Railroad Commissioners that requirements of law preliminary to incorporation have been complied with,	84
Health, State Board of, approval of regulation of sale of milk as article of food,	96
Hospital, State, exclusion of public from use of land belonging to,	108
Hours of labor of employee of street or elevated railway company,	54
Employees of street and elevated railway companies, regulation; constitutional law,	66
Exercise of police power in fixing; constitutional law,	20
Insane hospital, authority of trustees to limit number of patients,	77
Insanity, State Board of, appointment of agent to fill new position; appropriation,	72
Insurance, determination of indebtedness of Massachusetts Employees Insurance Association for outstanding losses,	29
Guaranty fund of title insurance company as trading capital,	110
Life and disability, separate and distinct policies, benefits conditioned upon disability,	37
Intoxicating liquors; sixth-class license, breach of conditions of, conviction of clerk of licensee,	59
Judicial district, act creating, submission of, to voters, constitutional law,	40
Land belonging to State hospital, exclusion of public from use of,	108
Registration of; income of assurance fund,	17
Lease of Commonwealth Pier to Old Colony Railroad Company; cancellation,	11
License, sixth-class, conviction of unlawful sale of intoxicating liquor by clerk of licensee; forfeiture,	59
To run steam boiler or engine or stationary locomotive,	19
Loan by trust company to single individual,	8
Locomotive, stationary, license to run steam boiler or engine of,	19
Massachusetts Employees Insurance Association, determination of indebtedness for outstanding losses,	29
Massachusetts Highway Commission, approval of local regulations of traffic,	7
Mollusks, cultivation of, grant of flats between high and low water mark; eminent domain,	47
Negligence of chauffeur in employment of Commonwealth, personal liability of members of boards or commissions for,	103
Officer, elective, veteran, retirement,	53
Pharmacy law, business of pharmacy conducted by dry goods and mercantile corporations by lease of floor space to registered pharmacist,	105
Police power, exercise of, in fixing hours of labor,	20
Private way, regulation of width and grade by cities and towns; constitutional law,	15
Railroad corporation, compliance with requirements of law preliminary to incorporation; determination of route; Board of Railroad Commissioners,	84
Reform school, juvenile, solitary confinement of inmate of,	2
Register of Deeds, minimum charge for recording instruments,	51
Registration of titles to land, income of assurance fund,	17

	PAGE
Regulation of sale of milk by boards of health; approval by State Board of Health as an article of food,	96
Of traffic, local, approved by Massachusetts Highway Commission, when,	7
Of width and grade of private ways by cities and towns; constitutional law,	15
Retirement of employees of Commonwealth; chairman of board or commission as head of department,	101
Savings department of a trust company, loan to single individual,	8
Schools, employment certificate of children under sixteen years of age; fee for transcript of birth certificate,	98
Solitary confinement of inmate of juvenile reform school,	2
Statute, establishing limit of time for holding articles of food in cold storage; perspective in effect,	1
Prohibiting the sale of eggs unfit for food, construction of,	57
Street or elevated railway company, employee of, hours of labor,	54
Street or elevated railway companies, regulation of hours of labor of employees of; police power,	66
Street railways as common carriers of express matter and freight; regulations and restrictions,	44
Supreme Judicial Court, confirmation of appointment of administrative or executive officer by; constitutional law,	52
Taxation of domestic business corporation, distribution of tax of canal company,	80
The Essex Company, distribution of tax assessed upon,	80
Traffic, regulation of, by cities and towns, approval by Massachusetts Highway Commission,	7
Trust company, loan to single individual,	8
Trustees of insane hospitals, authority to limit number of patients,	77
Veteran in the service of the Commonwealth, retirement, elective officer,	53
Weight, legal, in sale of fruit, nuts and vegetables at retail,	27
Weights and measures, gas or electric light meters as weighing and measuring devices,	84
Weymouth Back River, "cost and expenses" incidental to construction of bridge over; apportionment,	62

LIST OF CASES

IN WHICH THE

ATTORNEY-GENERAL

HAS APPEARED

DURING THE YEAR 1913.

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:—

Berkshire County.

- Adams. Hoosac Valley Street Railway Company, petitioners. Petition for abolition of Commercial Street crossing in Adams. George W. Wiggin, William W. McClench and Edmund K. Turner appointed commissioners. Commissioners' report filed. Frank H. Cande appointed auditor. Auditor's fourth report filed. 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. Commissioners' report filed. Frank N. Nay appointed auditor. Auditor's third report filed. Pending.
- Lanesborough, Selectmen of, petitioners. Petition for abolition of Valley Road and Glen Road crossings. Railroad Commissioners appointed commissioners. Commissioners' report filed. Frank H. Cande appointed auditor. Auditor's first report filed. Pending.
- 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, William W. McClench and Joseph P. Magenis appointed commissioners. Commissioners' report filed. Frank H. Cande appointed auditor. Auditor's second report filed. Pending.
- North Adams, Mayor and Aldermen of, petitioners. Petition for abolition of State Street and Furnace Street crossings. Edmund K. Turner, David F. Slade and William G. McKechnie appointed commissioners. Commissioners' report filed. Pending.

- Pittsfield, Mayor and Aldermen of, petitioners. Petition for abolition of Merrill crossing in Pittsfield. Thomas W. Kenefick, Frederick L. Green and Edmund K. Turner appointed commissioners. Pending.
- Stockbridge, Selectmen of, petitioners. Petition for the abolition of "River Road" crossing in Stockbridge. James B. Carroll, Edward B. Bishop and Luther Dean appointed commissioners. Commissioners' report filed. Wade Keyes appointed auditor. Auditor's second report filed. Pending.
- Stockbridge, Selectmen of, petitioners. Petition for abolition of South Street crossing. Railroad commissioners appointed commissioners. Commissioners' report filed. A. W. DeGoosh appointed auditor. Auditor's first report filed. Pending.
- Stockbridge, Berkshire Railroad, petitioner. Petition for abolition of Glendale station crossing. Pending.
- West Stockbridge, Selectmen of, petitioners. Petition for abolition of grade crossing at Albany Street. Pending.

Bristol County.

- Attleborough, Selectmen of, petitioners. Petition for abolition of West Street, North Main Street and other crossings in Attleborough. James R. Dunbar, Henry L. Parker and William Jackson appointed commissioners. Commissioners' report filed. Chas. P. Searle appointed auditor. Auditor's seventh 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 nineteenth report filed. Pending.
- Mansfield, Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of grade crossing at North Main, Chauncey, Central, West, School and Elm streets in Mansfield. Samuel L. Powers, Stephen S. Taft and Wm. Jackson appointed commissioners. George F. Swain appointed commissioner in place of Wm. Jackson, deceased. 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. Commissioners' report filed. Fred

E. Jones appointed auditor. Auditor's fifteenth report filed. Pending.

Somerset. New York, New Haven & Hartford Railroad Company, petitioner. Petition for abolition of grade crossing at Wilbur Avenue. James D. Colt, Henry H. Baker and Louis Perry appointed commissioners. Commissioners' report filed. Pending.

Swansea. New York, New Haven & Hartford Railroad Company, petitioner. Petition for abolition of grade crossing at River Road. James D. Colt, Henry H. Baker and Louis Perry appointed commissioners. Commissioners' report filed. Pending.

Taunton, Mayor and Aldermen of, petitioners. Petition for abolition of grade crossings at Danforth and other streets in Taunton. Thomas M. Babson, George F. Swain and Edwin U. Curtis appointed commissioners. Charles H. Beckwith appointed commissioner in place of Thomas M. Babson, deceased. Commissioners' report filed. James A. Stiles appointed auditor. Pending.

Essex County.

Georgetown, Selectmen of, petitioners. Petition for abolition of grade crossing at Weston's Crossing. Petition dismissed. Crossing abolished under an agreement approved by the Board of Railroad Commissioners.

Gloucester. Boston & Maine Railroad, petitioner. Petition for abolition of crossings at Magnolia Avenue and Brays crossing. Arthur Lord, Moody Kimball and P. H. Cooney appointed commissioners. Commissioners' report filed. A. W. DeGoosh appointed auditor. Auditor's first report filed. Pending.

Gloucester. Directors of Boston & Maine Railroad, petitioners. Petition for abolition of grade crossing between Washington Street and tracks of Boston & Maine Railroad. Pending.

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. Commissioners' report filed. Fred E. Jones appointed auditor. E. A. McLaughlin appointed auditor in place of Fred E. Jones, deceased. Auditor's fifteenth report filed. Pending.

- Ipswich, Selectmen of, petitioners. Petition for abolition of High Street and Locust Street crossings. Geo. W. Wiggin, Edmund K. Turner and William F. Dana appointed commissioners. Commissioners' report filed. Fred E. Jones appointed auditor. Auditor's fourth report filed. Pending.
- Lawrence, Mayor and Aldermen of, petitioners. Petition for abolition of crossing at Merrimac and other streets in Lawrence. Robert O. Harris, Edmund K. Turner and Henry V. Cunningham 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. Champlin and Edmund K. Turner appointed commissioners. Commissioners' report filed. Edward A. McLaughlin appointed auditor. Auditor's second report filed. Pending.
- Lynn, Mayor and Aldermen of, petitioners. Petition for abolition of grade crossings at Pleasant and Shepard streets, Gas Wharf Road and Commercial Street, on the Boston, Revere Beach & Lynn Railroad. Pending.
- Salem. Directors of Boston & Maine Railroad, petitioners. Petition for the abolition of grade crossings at Bridge, Washington, Mill, North, Flint and Grove streets in Salem. Patrick H. Cooney, George F. Swain and William A. Dana appointed commissioners. Pending.
- Salem, Mayor and Aldermen of, petitioners. Petition for abolition of Lafayette Street crossing in Salem. Pending.

Franklin County.

- Deerfield, Selectmen of, petitioners. Petition for abolition of "Upper Wisdom Road" crossing. Edmund K. Turner, Calvin Coolidge and Hugh P. Drysdale appointed commissioners. Commissioners' report filed. Lyman W. Griswold appointed auditor. Auditor's first report filed. Pending.
- Greenfield, Selectmen of, petitioners. Petition for the abolition of Allen and Russell streets crossings in Greenfield. Edmund K. Turner, Walter P. Hall and Fred D. Stanley appointed commissioners. Stephen S. Taft appointed auditor. Auditor's first report filed. Pending.
- Greenfield, Selectmen of, petitioners. Petition for abolition of grade crossing at Silver Street. Stephen S. Taft, Henry

P. Field and Thomas J. O'Connor appointed commissioners. Pending.

Northfield, Selectmen of, petitioners. Petition for abolition of crossing on road to South Vernon. Edmund K. Turner, Charles W. Hazelton and Charles H. Innes appointed commissioners. Commissioners' report filed. Pending.

Hampden County.

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

Russell, Selectmen of, petitioners. Petition for abolition of Montgomery Road crossing. Railroad Commissioners appointed commissioners. Commissioners' report filed. Thomas W. Kennefick appointed auditor. Auditor's second report filed. Pending.

Westfield, Attorney-General, petitioner. Petition for abolition of grade crossings at Lane's and Lee's crossings in Westfield. Patrick H. Cooney, Richard W. Irwin and Franklin T. Hammond appointed commissioners. Chas. E. Hibbard appointed commissioner in place of Richard W. Irwin, resigned. Commissioners' report filed. Pending.

Hampshire County.

Amherst, Selectmen of, petitioners. Petition for abolition of grade crossings at Whitney, High and Main streets. Railroad Commissioners appointed commissioners. Pending.

Belchertown, Selectmen of, petitioners. Petition for the abolition of crossing of road from Belchertown to Three Rivers and road from Bondville to Ludlow. Edmund K. Turner, F. G. Wooden and George P. O'Donnell appointed commissioners. Commissioners' report filed. Pending.

Middlesex County.

Acton, Selectmen of, petitioners. Petition for abolition of Great Road crossing in Acton. Benj. W. Wells, George D. Borage and William B. Sullivan appointed commissioners. Commissioners' report filed. Fred Joy appointed auditor. Pending.

Belmont, Selectmen of, petitioners. Petition for abolition of crossings at Waverley station. Thomas W. Proctor, Patrick H. Cooney and Desmond FitzGerald appointed commissioners. Pending.

- Chelmsford, Selectmen of, petitioners. Petition for abolition of grade crossing at Middlesex Street. Pending.
- Framingham, Selectmen of, petitioners. Petition for the abolition of Marble Street crossing. Pending.
- Framingham, Selectmen of, petitioners. Petition for the abolition of Concord Street crossing. Pending.
- Framingham, Selectmen of, petitioners. Petition for the abolition of Waverly Street crossing. Pending.
- Framingham, Selectmen of, petitioners. Petition for the abolition of Bishop Street crossing. Pending.
- Framingham, Selectmen of, petitioners. Petition for the abolition of Hollis and Waushakum streets crossings. Pending.
- Framingham, Selectmen of, petitioners. Petition for the abolition of Clafin Street crossing. Pending.
- Framingham, Selectmen of, petitioners. Petition for abolition of grade crossing at Willis Crossing. Pending.
- Lowell, Mayor and Aldermen of, petitioners. Petition for abolition of Middlesex and Thorndike streets crossings. George F. Swain, Patrick H. Cooney and Nelson H. Brown appointed commissioners. Pending.
- Lowell, Mayor and Aldermen of, petitioners. Petition for abolition of Boston Road or Plain Street, School, Walker and Lincoln streets crossings. Arthur Lord, David F. Slade and Henry A. Wyman appointed commissioners. Commissioners' report filed. A. W. DeGoosh appointed auditor. Auditor's sixth report filed. Pending.
- Lowell, Mayor and Aldermen of, petitioners. Petition for abolition of crossing at Western Avenue and Fletcher Street. 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 fourth report filed. Disposed of.
- Malden, Mayor and Aldermen of, petitioners. Petition for abolition of Pleasant and Winter streets crossing in Malden. George W. Wiggin, Edmund K. Turner and Fred Joy appointed commissioners. Commissioners' report filed. Winfield S. Slocum appointed auditor. Auditor's fifth report filed. 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. 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 second report filed. Disposed of.

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 the abolition of Glen Avenue and nine other crossings in Newton. Geo. W. Wiggin, T. C. Mendenhall and Edmund K. Turner appointed commissioners. Commissioners' report filed. Patrick H. Cooney appointed auditor. Auditor's seventeenth report filed. Disposed of.

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. Thomas W. Proctor appointed auditor. Auditor's first report filed. Pending.

Somerville, Mayor and Aldermen of, petitioners. Petition for abolition of Park Street, Dane Street and Medford Street crossings in Somerville. George W. Wiggin, George F. Swain and James D. Colt appointed commissioners. Commissioners' report filed. Patrick H. Cooney appointed auditor. Auditor's fifth report filed. Pending.

Somerville, Mayor and Aldermen of, petitioners. Petition for abolition of Somerville Avenue crossing in Somerville. George W. Wiggin, George F. Swain and James D. Colt appointed commissioners. Commissioners' report filed. Patrick H. Cooney appointed auditor. Auditor's eighth report filed. 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, — — — 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 Lord, Patrick H. Cooney and George F. Swain appointed commissioners. Pending.
- Watertown, Selectmen of, petitioners. Petition for abolition of grade crossings at Cottage, Arlington, School, Irving and other streets in Watertown. Pending.
- Wayland, Selectmen of, petitioners. Petition for abolition of grade crossing at State Road. George F. Swain, Harvey E. Shepherd and Arthur W. DeGoosh appointed commissioners. Pending.
- Weston, Selectmen of, petitioners. Petition for abolition of Church Street, Pigeon Hall and Concord Road crossings. Railroad Commissioners appointed commissioners. Commissioners' report filed. Joseph W. Lund, Esq., appointed auditor. Auditor's third report filed. Pending.
- Weston, Selectmen of, petitioners. Petition for abolition of grade crossings at Central Avenue, Conant Road, Church and Viles streets. P. H. Cooney, Louis A. Frothingham and Andrew M. Lovis appointed commissioners. Pending.
- Winchester, Selectmen of, petitioners. Petition for the abolition of crossing at Winchester station square. George W. Wiggin, George F. Swain and Arthur Lord appointed commissioners. Pending.

Norfolk County.

- Braintree, Selectmen of, petitioners. Petition for the abolition of the Pearl Street crossing at South Braintree. Patrick H. Cooney, Frank N. Nay and George F. Swain appointed commissioners. Pending.
- Braintree. Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of grade crossing at School, Elm, River and Union streets in Braintree. John L. Bates, Winfield S. Slocum and Arthur H. Wellman appointed commissioners. Commissioners' report filed. Pending.
- Brookline. Directors of Boston & Albany Railroad Company, petitioners. Petition for the abolition of Kerrigan Place crossing in Brookline. William Sullivan, Henry M. Hutchings and Wade Keyes appointed commissioners. Commissioners' report filed. Henry M. Hutchings appointed auditor. Auditor's second report filed. Pending.

- Canton. Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of Dedham Road crossing in Canton. Samuel L. Powers, Stephen S. Taft and Wm. Jackson appointed commissioners. Commissioners report filed. Recommitted. 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.
- Dover, Selectmen of, petitioners. Petition for abolition of grade crossing at Springdale Avenue and Dedham and Haven streets. Public Service Commission appointed commissioners. Pending.
- Foxborough. Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of grade crossing at Cohasset and Summer streets in Foxborough. Samuel L. Powers, Stephen S. Taft and Wm. Jackson appointed commissioners. Commissioners' report filed. Recommitted. Pending.
- Hyde Park, Selectmen of, petitioners. Petition for abolition of Fairmount Avenue and Bridge Street crossings in Hyde Park. Boyd B. Jones, Edmund K. Turner and Fred Joy appointed commissioners. Commissioners' report filed. Thomas W. Proctor appointed auditor. Auditor's third report filed. Pending.
- Needham, Selectmen of, petitioners. Petition for abolition of Charles River Street crossing in Needham. Pending.
- Quincy. Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of Saville and Water streets crossings in Quincy. John L. Bates, Winfield S. Slocum and Arthur H. Wellman appointed commissioners. Commissioners' report filed. Pending.
- Sharon. Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of grade crossing at Depot, Garden and Mohawk streets in Sharon. Samuel L. Powers, Stephen S. Taft and Wm. Jackson appointed commissioners. Commissioners' report filed. Recommitted. 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. N. L.

Sheldon appointed auditor. Auditor's fourth report filed. Pending.

Westwood. Directors of New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of Green Lodge Street crossing in Westwood. Samuel L. Powers, Stephen S. Taft and Wm. Jackson appointed commissioners. Commissioners' report filed. Recommitted. Pending.

Suffolk County.

Boston, Mayor and Aldermen of, petitioners. Petition for abolition of Dudley Street crossing in Dorchester. Thomas Post, Fred Joy and Edmund K. Turner appointed commissioners. Commissioners' report filed. James D. Colt appointed auditor. Auditor's tenth report filed. Pending.

Boston. New York, New Haven & Hartford Railroad Company, petitioners. Petition for abolition of Neponset and Granite avenues crossings in Dorchester. Pending.

Boston, Mayor and Aldermen of, petitioners. Petition for abolition of Freeport, Adams, Park, Mill and Walnut streets and Dorchester Avenue crossings. James R. Dunbar, Samuel L. Powers and Thomas W. Proctor appointed commissioners. Commissioners' report filed. Arthur H. Wellman appointed auditor. Auditor's twentieth report filed. Pending.

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 twenty-first 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. Winfield S. Slocum appointed auditor. Auditor's seventeenth report filed. Pending.

Boston, Mayor and Aldermen of, petitioners. Petition for abolition of crossings at Saratoga, Maverick and Marginal

- streets in East Boston. Railroad Commissioners appointed commissioners. Commissioners' report filed. Pending.
- Revere, Selectmen of, petitioners. Petition for abolition of Winthrop Avenue crossing in Revere of the Boston, Revere Beach & Lynn Railroad. Pending.

Worcester County.

- Clinton, Selectmen of, petitioners. Petition for abolition of Sterling, Water, Main, High and Woodlawn streets crossings. George W. Wiggin, William E. McClintock and James A. Stiles appointed commissioners. Commissioners' report filed. David F. Slade appointed auditor. Pending.
- Fitchburg, Mayor and Aldermen of, petitioners. Petition for abolition of Rollstone Street crossing in Fitchburg. Edmund K. Turner, Edwin U. Curtis and Ernest H. Vaughan appointed commissioners. Commissioners' report filed. James A. Stiles appointed auditor. Auditor's fifth report filed. Pending.
- Harvard. Boston & Maine Railroad, petitioner. Petition for abolition of a grade crossing near Harvard station. 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. H. L. Parker appointed auditor. Auditor's second 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, Summer, Mechanic and Main streets crossings. George W. Wiggin, George F. Swain and Charles D. Barnes appointed commissioners. Commissioners' report filed. Pending.
- Southborough, Selectmen of, petitioners. Petition for abolition of crossing on road from Southborough to Framingham. Samuel W. McCall, Louis A. Frothingham and Eugene C. Hultman appointed commissioners. Commissioners' report filed and recommitted. Pending.
- Southborough, Selectmen of, petitioners. Petition for abolition of Main Street crossing at Fayville in Southborough. Pending.

- Webster, Selectmen of, petitioners. Petition for abolition of grade crossing at Main Street. Pending.
- West Boylston. Boston & Maine Railroad Company, petitioners. Petition for abolition of Prescott Street crossing. Pending.
- Worcester, Mayor and Aldermen of, petitioners. Petition for abolition of crossings at Exchange, Central and Thomas and other streets. Arthur Lord, George F. Swain and Fred Joy appointed commissioners. 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, James H. Flint and George F. Swain appointed commissioners. Commissioners' report filed. James A. Stiles appointed auditor. Auditor's sixty-third report filed. Pending.

CASES ARISING IN THE COURTS

UNDER THE

ACTS RELATIVE TO INHERITANCE AND SUCCESSION TAXES.

PETITIONS FOR INSTRUCTIONS.

Essex County.

Clines, Mary G., estate of. Catherine A. Laycock, administratrix, petitioner. Petition for abatement of inheritance tax. Pending.

Lane, Annie B., estate of. Helen N. Allen, executrix, petitioner. Petition for abatement of inheritance tax. Pending.

Meserve, Chastina S., estate of. James W. Leitch, executor, petitioner. Petition for abatement of inheritance tax. Pending.

Nichols, Mary C., estate of. Frank O. Woods, executor, petitioner. Pending.

Franklin County.

Bassett, Sylvia H., estate of. Joseph W. Stevens, executor, petitioner. Petition for abatement of inheritance tax. Attorney-General waived right to be heard.

Hampden County.

Bates, Henry C., estate of. Charles H. Barrows, executor, petitioner. Pending.

George, Julinah R. C., estate of. Allen Webster, executor, petitioner. Petition for abatement of inheritance tax. Pending.

Moore, Margaret, estate of. Charles H. Barrows, executor, petitioner. Pending.

Hampshire County.

Welton, Walter B., estate of. Henry W. Kidder, administrator, petitioner.

Middlesex County.

- Aspell, Mary Louise, estate of. Jane L. Quinn, petitioner. Pending.
- Bancroft, Frederick, estate of. John F. Moors, executor, petitioner. Petition for abatement of inheritance tax. Pending.
- Blood, Benjamin F., estate of. Stanley R. Bryant *et al.*, executors, petitioners. Decree.
- Bouton, Eliza J., estate of. Louis Bell *et al.*, executors, petitioners. Pending.
- Brooks, Andrew B., estate of. Rebekah J. Brooks, executrix, petitioner. Petition for abatement of inheritance tax. Decree.
- Hobart, William D., estate of. Clarence P. Weston, administrator *c. t. a.*, petitioner. Petition for abatement of inheritance tax. Pending.
- Loring, Charles W., estate of. Francis C. Welch *et al.*, trustees, petitioners. Petition for abatement of inheritance tax. Decree.
- Moor, James C., estate of. William R. Whittemore, executor, petitioner. Petition for abatement of inheritance tax. Decree.
- Perry, Emery B., estate of. Thomas Weston, executor, petitioner. Pending.
- Proudfoot, David, *et al. v.* Third Congregational Society in Cambridge *et al.* Pending.
- Scott, Julia A., estate of. Emma E. Doty, executrix, petitioner. Petition for abatement of inheritance tax. Pending.
- Slater, Andrew C., estate of. Joseph T. Brown *et al.*, executors, petitioners. Petition for abatement of inheritance tax. Pending.
- Spear, Viana M., estate of. Frank W. Spear, administrator, petitioner. Attorney-General waived right to be heard.
- Wolfe, Georgette Emeline, estate of. Newton Trust Company, administrator, petitioner. Pending.

Norfolk County.

- Fisher, Charles H., estate of. Lydia M. Fisher, executrix, petitioner. Decree.
- Hill, William H., estate of. William H. Hill *et al.*, trustees, petitioners. Pending.
- Kaffenburgh, Isaac, estate of. Helene W. Kaffenburgh *et als.*, executors, petitioners. Decree.

Nichols, Lucy, estate of. Edward H. Nichols *et al.*, administrators, petitioners. Petition for abatement of inheritance tax. Pending.

Tobin, Ellen A., estate of. William Sullivan, executor, petitioner. Pending.

Tobin, Lawrence, absentee, estate of. Howard A. Wilson, receiver, petitioner. Pending.

Plymouth County.

Blenkinsop, James S., estate of. John R. Mills, administrator, petitioner. Petition for abatement of inheritance tax. Pending.

Jones, Augustus T., estate of. Harriet D. Jones *et al.*, executors, petitioners. Decree.

Peirce, Harriot O., estate of. Osgood Putnam, executor, petitioner. Petition for abatement of inheritance tax. Pending

Suffolk County.

Amory, Arthur, estate of. Ingersoll Amory, trustee, petitioner. Pending.

Bliss, Cornelius N., estate of. Cornelius N. Bliss, Jr., *et als.*, executors, petitioners. Petition for abatement of inheritance tax. Pending.

Burnham, John A., estate of. William A. Burnham *et al.*, petitioners. Pending.

Dwight, Mary S., estate of. Grenville Clark *et als.*, petitioners. Pending.

Hunnewell, James F., estate of. William Farnsworth, executor, petitioner. Decree.

Kelly, Thomas, estate of. Harriet L. Kelly, petitioner. Decree.

Osgood, Elizabeth B., estate of. Katherine C. Stackpole *et al.*, executors, petitioners. Decree.

Osgood, Henry B., estate of. Katherine C. Stackpole, administratrix, petitioner. Decree.

Park, William D., estate of. Osmond S. Park, executor, petitioner. Petition for abatement of inheritance tax. Pending.

Phillips, Charles H., estate of. Old Colony Trust Company, executor, petitioner. Decree.

Smith, Charles Gaston, *et al.*, trustees, *v.* Carl Youngren *et al.*, executors. Decree.

Tucker, Lawrence, estate of. Robert H. Gardiner, *et al.*, executors, petitioners. Pending.

Worcester County.

Metcalf, Caleb B., estate of. George L. Clark, executor, petitioner. Dismissed.

Putnam, Henry, estate of. Willis E. Sibley *et al.*, executors, petitioners. Petition for abatement of inheritance tax. Attorney-General waived right to be heard.

Taylor, Ransom C., estate of. Ransom F. Taylor *et al.*, administrators, petitioners. Pending.

INVENTORIES.

Barnstable County.

Curran, David, estate of. James E. Curran, administrator. Dismissed.

Berkshire County.

Bossidy, Patrick, estate of. James O'Brien, executor. Decree.

Boyne, Thomas A., estate of. James O'Brien, administrator. Dismissed.

Lavigne, Agnes, estate of. Alaric P. Lavigne, administrator. Dismissed.

Lisee, Armidas, estate of. Marie Lisee, administratrix. Dismissed.

Roberts, Herbert I., estate of. Lura M. Roberts, administratrix. Pending.

Bristol County.

Brogan, Edward, estate of. Mary A. Brogan, administratrix. Dismissed.

DePina, Epolo T., estate of. Casimiro T. DePina, administrator. Dismissed.

Dorais, Aurelie, estate of. Arthur Dorais, executor. Dismissed.

Fortes, Jose F., estate of. Henry E. Woodward, administrator. Dismissed.

Gifford, William, 2d, estate of. C. P. Sherman, executor. Dismissed.

Kennedy, Joseph A., estate of. Clara J. Kennedy, administratrix. Dismissed.

McKenna, Patrick F., estate of. James F. Kiernan, administrator. Pending.

Sanford, Susan, estate of. Foster R. Greene, executor. Dismissed.

Walsh, Patrick C., estate of. Annie M. Walsh, administratrix. Dismissed.

Essex County.

Britt, Rebecca W., estate of. Lena L. Bishop, administratrix. Dismissed.

Brown, Lucy R., estate of. Nellie Brown, administratrix. Pending.

Burrill, Louise, estate of. Augustus L. Burrill, administrator. Pending.

Carter, Emma, estate of. James J. Carter, administrator. Dismissed.

Driscoll, Cornelius, estate of. Julia A. Driscoll, administratrix. Dismissed.

Foley, Henry J., estate of. Elizabeth L. Foley, administratrix. Dismissed.

Gaffney, James F., estate of. Julia A. Crossley, administratrix. Dismissed.

Heenan, William, estate of. R. G. Patten, executor. Dismissed.

Hilton, John S., estate of. Frances L. Hilton, executrix. Dismissed.

King, Mary A., estate of. Katherine E. McCullough, executrix. Dismissed.

Leone, Joseph, estate of. Alphonse Leone, administrator. Decree.

Murphy, John D., estate of. Dennis J. Murphy *et al.*, executors. Dismissed.

Orne, John, estate of. Carrie A. Orne, administratrix. Dismissed.

Parlardy, C. A. W., estate of. Alden P. White, executor. Dismissed.

Pike, Hattie K., estate of. Grace R. Beard, administratrix *c. t. a.* Pending.

Roach, John J., estate of. Michael J. Reardon, executor. Decree.

Smith, Oren, estate of. Edith M. Smith, executrix. Dismissed.

Starr, Walter, estate of. Gussie Starr, special administratrix. Dismissed.

Tedford, John, estate of. Mary A. Tedford, executrix. Dismissed.

Zavarello, Louis, estate of. Liberato Zaverella, administrator. Dismissed.

Franklin County.

Wells, Lucina C., estate of. James W. Clapp, administrator. Dismissed.

Hampden County.

Clarke, Emily B., estate of. William Mauer, administrator. Dismissed.

De Giacomo, Alfonso, estate of. Gaetano Poccardi, administrator. Pending.

Halstead, Lillian, estate of. John McKean, administrator. Dismissed.

Kelley, Margaret, estate of. Ella J. Carrigan, executrix. Dismissed.

Melaszansky, Joseph, estate of. Ursula J. Melaszansky, administratrix. Pending.

Miller, Diana, estate of. John McKean, administrator. Dismissed.

Nicholson, Mary, estate of. Margaret King, administratrix. Dismissed.

Ostiguy, Marie Papineau, estate of. Clarisse Papineau Parent, executrix. Dismissed.

Picard, Julia, estate of. Edward H. Cullen, administrator. Dismissed.

Reed, John H., estate of. Scott Adams, administrator. Dismissed.

Rooney, John, estate of. Margaret Rooney, administratrix. Decease.

Hampshire County.

Lindanovice, Adam, estate of. William J. Reilley, administrator. Dismissed.

Middlesex County.

Brock, Patrick, estate of. Patrick M. Brock, administrator. Dismissed.

Brouillette, Joseph P., estate of. Esmeralda M. Brouillette, administratrix. Dismissed.

Cahill, Elizabeth, estate of. Mary A. Kahn, administratrix. Dismissed.

- Calef, Helen M., estate of. Susan M. Barker, administratrix. Pending.
- Callahan, Margaret, estate of. Hanora Callahan, executrix. Dismissed.
- Chadbourne, Marshall W., estate of. Addie Chadbourne, executrix. Pending.
- Collins, Michael E., estate of. Leslie C. Brown, administrator. Dismissed.
- Crotty, Patrick, estate of. Mary E. Crotty, executrix. Dismissed.
- Doerfler, Margaret, estate of. Minnie Dunnells, executrix. Dismissed.
- Edmands, Hannah B., estate of. George E. Crafts, administrator. Pending.
- Ellis, Mary A., estate of. Annie E. Chadwick *et al.*, executors. Dismissed.
- Fletcher, Mary J., estate of. Nancy M. Fletcher, executrix. Dismissed.
- Flynn, Teresa, estate of. Daniel C. Flynn, administrator. Dismissed.
- Frotton, Peter E., estate of. Frank H. Frotton, administrator. Dismissed.
- Gallagher, Nellie A., estate of. Matthew F. Gallagher, administrator. Dismissed.
- Gilchrist, Isabella I., estate of. John J. Briggs *et al.*, executors. Pending.
- Hamell, Sarah, estate of. James Hamell, administrator. Dismissed.
- Harrington, Jeremiah, estate of. Minnie Harrington, executrix. Dismissed.
- Harwood, Elizabeth M., estate of. Bertha W. Harwood, executrix. Dismissed.
- Hunt, Ann, estate of. Clara A. Farwell, executrix. Dismissed.
- Jordan, Susan, estate of. Percie D. Jordan, administrator. Dismissed.
- Lambert, Vivian L., estate of. William J. Lambert, administrator. Pending.
- Lang, Augustus M., estate of. Harriet E. Lang, executrix. Pending.
- Lawrence, Arthur F., estate of. Arthur P. French, administrator. Dismissed.

- Leahan, Dennis, estate of. P. Sarsfield Cunniff, executor. Dismissed.
- Loring, Euphemia I., estate of. Sarah S. Loring, executrix. Dismissed.
- McDonald, James J., estate of. Elizabeth F. McDonald, administratrix. Dismissed.
- Means, George W., estate of. George B. Means *et al.*, executors. Decree.
- Morandi, Carmela, estate of. Antonio Morandi, administrator. Dismissed.
- Murray, Martha L., estate of. Mary L. Whittemore, administratrix. Dismissed.
- Myers, Emma F., estate of. Margaret A. Murray, administratrix. Decree.
- Nash, Joseph, estate of. Pauline T. Nash, administratrix. Dismissed.
- Nicholson, John W., estate of. Charles H. Molloy, executor. Dismissed.
- O'Brien, Martin, estate of. Winifred E. McHugh, administratrix. Decree.
- Pesachovitz, Joseph, estate of. Jacob Bargar, executor. Dismissed.
- Pierlot, Annie F., estate of. Agnes J. Pierlot, administratrix. Dismissed.
- Revelle, John J., Jr., estate of. John J. Revelle, administrator. Pending.
- Rice, Emeline S., estate of. Helen R. Stevens *et al.*, executrices. Dismissed.
- Riley, Mary E., estate of. Ella R. McHugh, executrix. Dismissed.
- Robard, Samuel R., estate of. Catherine King, administratrix. Pending.
- Rogers, Albert E., estate of. Annie B. Rogers, executrix. Dismissed.
- Russell, Walter A., estate of. Mary H. Russell, administratrix. Dismissed.
- Scott, Rebecca, estate of. Margaret A. Griffiths, administratrix. Dismissed.
- Sebastiano, Rigoli, estate of. Antonio Paladino, administrator. Pending.
- Shine, Cornelius, estate of. Ellen Shine, administratrix. Dismissed.

- Stewart, Nettie McL., estate of. Allen H. Stewart, administrator. Decree.
- Sweeney, Thomas P., estate of. John J. Egan, administrator. Pending.
- Tower, Levi L., estate of. Fred E. Kimball *et al.*, executors. Dismissed.
- Upton, Sarah J., estate of. John W. Roberts, administrator. Dismissed.
- Vallin, Edward, estate of. John Tapper, executor. Dismissed.

Norfolk County.

- Foss, Sarah M., estate of. Mary H. Sampson, administratrix. Dismissed.
- Healey, Thomas P., estate of. Thomas F. Healey, administrator. Dismissed.
- Higgins, Albert H., estate of. Alice L. Higgins, administratrix. Dismissed.
- Howard, Mary A., estate of. John Everett, executor. Dismissed.
- Jones, Jane E., estate of. Laura J. Jones, administratrix. Dismissed.
- Katz, Harry, estate of. Rachel Katz, administratrix. Decree.
- McPherson, Mary A., estate of. Duncan McPherson, administrator. Pending.
- Reed, Napoleon B., estate of. Rose A. Reed, administratrix. Decree.
- Tannam, Margaret M., estate of. George T. Tannam, administrator. Dismissed.
- Tauber, Alfred B., estate of. Olga A. Tauber, administratrix. Dismissed.
- Thayer, Emily P., estate of. Frank I. Sherman, executor. Decree.
- Tower, Levina, estate of. Albert F. Elwell, administrator. Decree.
- Waite, Enoch, estate of. Amanda M. Waite, executrix. Dismissed.
- Wolfe, Sarah E., estate of. John W. S. Wolfe, administrator. Dismissed.

Plymouth County.

- Butler, Lucitta, estate of. Samuel S. Butler, administrator. Dismissed.
- Cushing, William L., estate of. Emma F. Cushing, administratrix. Dismissed.

- Gibbs, Charles F., estate of. James U. Potter, administrator. Dismissed.
- Joyce, Mary, estate of. Helen L. Joyce, administratrix. Dismissed.
- Manuel, Julia L., estate of. Francis M. Costello, executor. Dismissed.
- Raymond, Albert R., estate of. Mary F. Raymond, executrix. Dismissed.
- Riddle, Harriett, estate of. Priscilla W. Bailey, administratrix. Dismissed.
- Twohig, Hanora, estate of. James Twohig, administrator. Dismissed.

Suffolk County.

- Acomb, Violet M. J., estate of. Thomas W. Acomb, administrator. Dismissed.
- Adolph, Joseph, estate of. Isaac Klein, administrator. Dismissed.
- Almeida, Christiano F., estate of. Angelina F. Almeida, administratrix. Decree.
- Aspell, Catherine M., estate of. Thomas J. Aspell, administrator. Decree.
- Bailen, Annie J., estate of. David Bailen, administrator. Dismissed.
- Bartholomew, Susan W., estate of. Sarah B. James, administratrix. Pending.
- Baxter, Albert, estate of. Elizabeth A. Baxter, administratrix. Pending.
- Berry, Catherine, estate of. Edward Berry, administrator. Dismissed.
- Bershinsky, John, estate of. Lihba Bershinsky, administratrix. Dismissed.
- Betts, James S., estate of. George R. Betts, special administrator. Dismissed.
- Bishop, George, estate of. Addie N. Bishop, administratrix. Dismissed.
- Bliss, Leonard C., estate of. Fred H. Williams, executor. Dismissed.
- Boleisha, Kazimerz C., estate of. Mary Boleisha, administratrix. Pending.
- Bonney, Sarah A. W., estate of. Morton Collingwood, executor. Dismissed.

- Bowen, Edward, estate of. Nellie E. Bowen, administratrix. Decree.
- Brehm, Charles W., estate of. Estella F. Brehm, administratrix. Decree.
- Brennan, William, estate of. Annie Brennan, administratrix. Dismissed.
- Brickley, Madell T., estate of. Patrick J. Brickley, administrator. Dismissed.
- Brutcher, Margaret, estate of. Thomas J. Brutcher, administrator. Dismissed.
- Byrne, William R., estate of. Catherine M. Byrne, administratrix. Pending.
- Cameron, John C., estate of. Maria J. Cameron, administratrix. Dismissed.
- Campbell, Patrick J., estate of. John J. Campbell, administrator. Pending.
- Carakalios, Constantinos, estate of. Cooly A. Contos, administrator. Decree.
- Cardany, Wilfred U., estate of. Raymond U. Cardany, administrator. Dismissed.
- Carmichael, Margaret V., estate of. Frederick R. Carmichael, executor. Dismissed.
- Carroll, James A., estate of. Josephine M. Carroll, administratrix. Dismissed.
- Carroll, John T., estate of. Herbert Carroll, administrator. Dismissed.
- Casey, Frank, estate of. Abbie Casey, administratrix. Pending.
- Chaplin, Matilda C., estate of. Samuel Chaplin, administrator. Pending.
- Ciolfi, Giovanni, estate of. Frank Leveroni, administrator. Dismissed.
- Clifford, Mary A., estate of. James F. Clifford, executor. Pending.
- Cordeiro, Antoine P., estate of. Mary E. Cordeiro, administratrix. Dismissed.
- Cotter, Mary, estate of. Gertrude Cotter, administratrix. Filed.
- Curran, James F., estate of. Stephan Curran, administrator. Dismissed.
- Daly, Michael, estate of. Ellen E. Murray, administratrix. Pending.
- Di Maino, Raffaele, estate of. Luigi DiMaino, administrator. Dismissed.

- Glott, Louis, estate of. Israel Glott, administrator. Dismissed.
- Donohue, Thomas, estate of. Mary Donohue, administratrix. Dismissed.
- Donovan, Cornelius J., estate of. John W. Donovan, administrator. Dismissed.
- Donovan, Patrick, estate of. Margaret Donovan, administratrix. Pending.
- Dorini, Celestina, estate of. Antonio Dorini, administrator. Pending.
- Drew, George E., estate of. Charlotte A. Drew, administratrix. Dismissed.
- Ferullo, Tony, estate of. Luigi Matarazzo, administrator. Dismissed.
- Flaherty, Margaret, estate of. Margaret J. Burns, administratrix. Pending.
- Flood, Mary E., estate of. Edward L. Flood, executor. Dismissed.
- Galligan, Brian B., estate of. Richard J. Galligan, administrator. Pending.
- Giacobbe, Marianna, estate of. Santo Giacobbe, administrator. Pending.
- Greenough, Louie P. E., estate of. Herbert F. Callahan, administrator. Dismissed.
- Hagan, Michael, estate of. Francis Hagan *et al.*, executors. Dismissed.
- Harrington, Cornelius J., estate of. Margaret G. Hartnett, administratrix. Dismissed.
- Hart, John H., estate of. William H. Hart, administrator. Pending.
- Hegarty, Michael, estate of. Margaret Hegarty, executrix. Decree.
- Higgins, Catherine, estate of. P. S. Cunniff, executor. Dismissed.
- Hill, Emogene B., estate of. Myrton O. Hill, administrator. Dismissed.
- Imparata, Angelo, estate of. Giuseppe Imparata, administrator. Dismissed.
- Kilday, Thomas, estate of. Patrick Kilday, administrator. Pending.
- Killeen, Daniel J., estate of. John B. Killeen, administrator. Decree.

- Kilroy, Mary E., estate of. Martin J. Kilroy, administrator. Pending.
- King, James T., estate of. Augusta King, administratrix. Decree.
- Levy, Benjamin, estate of. Edward M. Levy, administrator. Dismissed.
- Lindquist, Chester W., estate of. Selma Lindquist, administratrix. Dismissed.
- Littig, Katherine, estate of. Henry Zepp, executor. Pending.
- Lucy, Ellen M., estate of. Daniel J. Lucy, administrator. Pending.
- Lyons, Maria, estate of. Charles F. Lyons, administrator. Dismissed.
- Mansfield, Patrick J., estate of. Frank Leveroni *et al.*, administrators. Dismissed.
- Marr, Ella G., estate of. Myron L. Marr, administrator. Dismissed.
- McCorkle, James R., estate of. Madeline M. McCorkle, administratrix. Dismissed.
- McCue, Michael, estate of. Margaret McCue, administratrix. Dismissed.
- McCutcheon, George H., estate of. George O. McCutcheon, administrator. Dismissed.
- McDonald, Mary E., estate of. Patrick J. O'Brien, executor. Dismissed.
- McHale, John F., estate of. Annie J. McHale, administratrix. Dismissed.
- McNamara, Catherine, estate of. Timothy F. Callahan, administrator. Dismissed.
- Mendelson, Samuel, estate of. Rose Mendelson, administratrix. Dismissed.
- Miller, Sarah F., estate of. Mary E. Hines, administratrix. Dismissed.
- Moriarty, Patrick J., estate of. Edward P. Barry, administrator. Pending.
- Murphy, Bridget A., estate of. Emily W. Coughlin, administratrix. Decree.
- Murphy, Catherine, estate of. Eugene J. Murphy, administrator. Dismissed.
- Murphy, George, estate of. Nicholas Murphy, administrator. Dismissed.

- Murray, William J., estate of. William H. Murray, administrator. Dismissed.
- Norcross, Frederick H., estate of. Mary Norcross, administratrix. Decree.
- O'Farrell, Mary M., estate of. John D. Carmody, executor. Pending.
- O'Neil, Ellen, estate of. John O'Neil, administrator. Pending.
- Parillo, Rose, estate of. Joseph Parillo, administrator. Dismissed.
- Poulos, Thomas, estate of. Amanda Teresa Poulos, administratrix. Pending.
- Price, Michael, estate of. James M. Price, administrator. Dismissed.
- Riley, John C., estate of. James Riley, administrator. Dismissed.
- Rouke, Alfonsus L., estate of. Fabian J. Rouke, administrator. Dismissed.
- Rowell, Samuel C., estate of. Louise H. Rowell, administratrix. Dismissed.
- Santoorj, Samuel, estate of. Margaret Mikaelian, executrix. Pending.
- Shields, Peter, estate of. William Shields, administrator. Dismissed.
- Silberg, Joseph, estate of. Samuel Silberg, administrator. Dismissed.
- Sirvain, Marcelin, estate of. Aglar Sirvain, executor. Pending.
- Spangler, Frank, estate of. August Weitz, administrator. Dismissed.
- Sullivan, Daniel J., estate of. Annie T. Sullivan, executrix. Pending.
- Sullivan, Mary, estate of. Mary E. Sullivan, administratrix. Dismissed.
- Tortorella, Francesca, estate of. Ignazio Tortorella, administrator. Dismissed.
- Urban, Elisabeth, estate of. Lizzie Urban, administratrix. Dismissed.
- Vose, Andrew J., estate of. Abbie T. Vose, executrix. Dismissed.
- Walenszius, Anthony, estate of. Katorina Walenszius, administratrix. Dismissed.

Walker, Matilda, estate of. Rebecca Black, administratrix.
Dismissed.

Warren, Katherine E., estate of. H. Ernest Warren, administrator. Dismissed.

Woodlin, Mary E., estate of. Robert Gallagher, administrator.
Decree.

Zuffante, Michele, estate of. Giuseppe Zuffante, administrator.
Dismissed.

Worcester County.

Barker, Eacyetta, estate of. Everett N. Barker, administrator.
Dismissed.

Booth, Byron A., estate of. Harry C. Bascom, executor. Dismissed.

Chadbourne, Alonzo H., estate of. Bertha M. Dean, administratrix. Dismissed.

Chadwick, James S., estate of. Cora J. Chadwick, administratrix. Dismissed.

Curran, John J., estate of. Peter F. Curran, administrator.
Dismissed.

Deland, Edward M., estate of. Earl C. Deland, administrator.
Dismissed.

Gallant, Prosper, estate of. Mary S. Gallant, executrix. Dismissed.

Goodwin, Calvin L., estate of. E. Clairmont Goodwin, administrator. Dismissed.

Groezinger, Charles G., estate of. Charles F. Groezinger, administrator. Dismissed.

Hart, Harriet, estate of. Melvin Hart, administrator. Dismissed.

Hartwell, Eveline E., estate of. Susan R. Hartwell, administratrix. Pending.

Higgins, Milton P., estate of. Katharine C. Higgins, executrix.
Dismissed.

Kennedy, Thomas F., estate of. Rose Kennedy, administratrix.
Pending.

Langton, Mary, estate of. Frank E. Langton, administrator.
Decree.

Leonard, Michael, estate of. Mary A. Martin, administratrix.
Dismissed.

McGowan, Peter J., estate of. Catherine E. McGowan, executrix. Dismissed.

Midgley, B. Ellen, estate of. James Midgley, executor. Dismissed.

Power, Margaret, estate of. Bridget M. Power, executrix. Dismissed.

Santore, Frank, estate of. Mary F. Santore, administratrix. Dismissed.

Schwager, Kathrina, estate of. John M. Schwager, administrator. Dismissed.

Tappan, Curtis B., estate of. Harriet T. Brigham, executrix. Decree.

Toto, Lucia, estate of. Michele Toto, administrator. Dismissed.

Vivier, Joseph E., estate of. Fred Martin, administrator. Dismissed.

PUBLIC CHARITABLE TRUSTS.

Barnstable County.

Nickerson, Joseph, estate of. Arthur W. Hartt, petitioner. Petition for appointment of trustee. Attorney-General waived right to be heard.

Berkshire County.

Camp, Daniel A., estate of. James B. Turner, executor, petitioner. Petition for instructions. Pending.

Lenox Library Association *v.* David Lydig *et als.* Bill of complaint brought to confirm trust deeds. Decree.

Newton, Maria H., estate of. A. Chalkley Collins, administrator, petitioner. Petition for instructions. Decree.

Bristol County.

Freese, John Wesley, estate of. Helen M. Freese, executrix, petitioner. Petition for instructions. Pending.

Richard, Joseph A., estate of. Thomas C. Sadler, petitioner. Petition for appointment of trustee. Attorney-General waived right to be heard.

White, John, estate of. Iram N. Smith, executor, petitioner. Petition for instructions. Pending.

Essex County.

Atwood, Margaret, estate of. Henry B. Little *et als.*, petitioners. Petition for appointment of petitioners as trustees. Pending.

Barr, Henry, estate of. Salem Young Men's Christian Association, petitioner. Petition for authority to sell real estate. Pending.

Breed, Nathan, estate of. Edmund F. Buffington *et al.*, trustees, petitioners. Petition for instructions. Decree.

Corliss, Mary, estate of. George H. Carleton, administrator *c. t. a.*, petitioner. Petition for instructions. Pending.

- 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.* Dismissed.
- Hahn, Eliza J., estate of. Charles A. Cross, trustee, petitioner. Petition for instructions. Pending.
- Haskins, Leander M., estate of. Grafton Butman, petitioner. Petition for appointment of trustee. Pending.
- Hawks, Esther H., estate of. Frank W. Atkins *et al.*, executors, petitioners. Petition for allowance of fourth and fifth and final accounts. Attorney-General waived right to be heard.
- Hawks, Esther H., estate of. Hannah T. Carret *et als.*, trustees, petitioners. Petition for allowance of fifth account. Attorney-General waived right to be heard.
- Healy, Jeremiah J., estate of. Dennis Healy, executor. Petition for instructions. Decree.
- Lennon, Patrick, estate of. James F. Leonard, executor, petitioner. Petition for instructions. Decree.
- Moore, Martha, estate of. Mary Barker, executrix, petitioner. Petition for instructions. Pending.
- Moseley, Julia M., estate of. Oliver H. Perry *et al.*, executors, petitioners. Petition for instructions. Pending.
- Otis, Margaret Sigourney, estate of. Philip Dexter *et al.*, executors. Petition for instructions. Decree.
- Robbins, Mary B., estate of. Charles E. Sawyer, trustee. Petition for instructions. Decree.
- Smith, John, estate of. J. Duke Smith, trustee. Petition for instructions. Decree.
- Stearns, Artemas W., estate of. John P. Sweeney *et al.*, trustees, petitioners. Petition for allowance of first account. Pending.

Franklin County.

- Davenport, George W., estate of. Josiah W. Stevens *et al.*, trustees, petitioners. Petition for authority to sell real estate. Attorney-General waived right to be heard.
- Delano, Lucy J., estate of. Thomas F. Harrington, petitioner. Petition for appointment of trustee. Pending.
- Field, Simeon A., estate of. Henry W. Montague, trustee, petitioner. Petition for allowance of third account. Pending.
- Stratton, Abigail, estate of. Frank H. Montague *et al.*, trustees, petitioners. Petition for allowance of tenth account. Pending.

Hampden County.

- Capen, Meriva L., estate of. Frank S. Keith, petitioner. Petition for appointment of trustee. Attorney-General waived right to be heard.
- Dearborn, Danville A., estate of. American Baptist Home Mission Society, petitioner. Petition for authority to sell real estate. Pending.
- Mead, Charles W., estate of. Jennie L. Bixby, executrix, petitioner. Petition for instructions. Attorney-General waived right to be heard.
- Winter, Sarah J., estate of. Thomas W. Kenefick, executor, petitioner. Petition for instructions. Pending.

Hampshire County.

- Russell Church in Hadley. Francis S. Reynolds, trustee. Petition for instructions. Pending.

Middlesex County.

- Abbott, Carrie F., estate of. Winthrop P. Soule, executor, petitioner. Petition for allowance of first account. Attorney-General waived right to be heard.
- Berry, Mabel, estate of. Frank W. Kaan, petitioner. Petition for appointment of trustee. Attorney-General waived right to be heard.
- Bugbee, Samuel W., *et al. v.* Attorney-General. Petition for instructions. Pending.
- Bull, Sara C., estate of. Joseph G. Thorp *et al. v.* John Lund *et al.* Petition for instructions. Pending.
- Child, Lydia Maria, estate of. Eleanor G. May, petitioner. Petition for leave to transfer trust fund. Pending.
- Copeland, Sarah E., estate of. Alba A. Giles, executor, petitioner. Petition for allowance of second account. Pending.
- Donaghey, Henry, estate of. William E. Whitney *et al. v.* Annie J. Davenport *et al.* Petition for instructions. Pending.
- Hammond, George P., estate of. Elizabeth F. Johnson, executrix, petitioner. Petition for instructions. Pending.
- Hopkins, Lucretia A., estate of. James A. Bancroft, executor, petitioner. Petition for instructions. Decree.
- Hoyt, Eli W., estate of. Alexis D. Sargent, petitioner. Petition for appointment of trustee. Attorney-General waived right to be heard.

- Mellen, William H., estate of. Town of Framingham, petitioner. Petition for authority to sell real estate. Pending.
- Sawyer, Emily E., estate of. Frederick W. Stone *et al.*, executors, petitioners. Petition for instructions. Decree.
- Shepherd, Obed C., estate of. Charles H. Sherman, executor, petitioner. Petition for instructions. Decree.
- Simonds, Marshall, estate of. Otis Simonds *et al.*, trustees, petitioners. Petition for allowance of first account. Attorney-General waived right to be heard.
- Simonds, Marshall, estate of. Town of Burlington *v.* Attorney-General. Petition for instructions. Pending.
- Tabor, Frances F., estate of. Charles S. Norris, executor, petitioner. Petition for instructions. Rescript.
- Talbot, Isabella W., estate of. Adelbert L. Wait *et al.*, petitioners. Petition for appointment of trustees. Pending.
- Thompson, Emulus, estate of. Melvin G. Rogers, administrator, petitioner. Petition for instructions. Pending.
- White, Daniel, estate of. Winslow Warren *et al.*, trustees, petitioners. Petition for allowance of sixteenth, seventeenth and eighteenth accounts. Pending.

Nantucket County.

- Enas, Sally Maria, estate of. Lauriston Bunker, trustee, petitioner. Petition for allowance of first account. Account allowed.

Norfolk County.

- Bartlett, Schuyler S., *v.* William Endicott *et al.*, petitioners. Petition for instructions. Pending.
- Lee, Henry, estate of. Schuyler S. Bartlett, executor, petitioner. Petition for instructions. Pending.
- Mann, Jonathan, estate of. John F. Brown *et al.*, executors, petitioners. Petition for instructions. Reserved for full court.
- Mann, Jonathan, estate of. Carrie S. Leeds, petitioner. Petition for removal of trustee. Pending.
- Quincy, City of, *v.* James M. Swift, Attorney-General, *et als.* Petition for authority to sell land held in trust and reinvest proceeds. Pending.
- Sears, David, estate of. Francis I. Amory *et al.*, trustees, petitioners. Petition for authority to sell real estate. Attorney-General waived right to be heard.

Suffolk County.

- Amory, Francis I., *et al. v.* Trustees of Amherst College *et al.*
Petition for instructions. Pending.
- Ashton, Elisha V., estate of. Charles P. Greenough *et al.*,
trustees, petitioners. Petition for authority to sell real
estate. Attorney-General waived right to be heard.
- Ashton, Elisha V., estate of. Charles P. Greenough, trustee, pe-
titioner. Petition for allowance of twenty-second to twenty-
fifth accounts, inclusive. Attorney-General waived right to
be heard.
- Beals, Nancy, estate of. Emily H. Treadwell, trustee, petitioner.
Petition for allowance of second account. Attorney-Gen-
eral waived right to be heard.
- Bird, John H., estate of. George A. Thayer *et al.*, trustees, pe-
titioners. Petition for allowance of thirty-seventh and
thirty-eighth accounts. Attorney-General waived right to be
heard.
- Bird, John H., estate of. George A. Thayer *et al.*, trustees, pe-
titioners. Petition for allowance of thirty-ninth account.
Attorney-General waived right to be heard.
- Bird, John H., estate of. J. Alfred Mitchell, petitioner. Pe-
tition for appointment of trustee. Attorney-General waived
right to be heard.
- Blake, Clarence J., *et als.*, trustees under an agreement and dec-
laration of trust, *v.* Attorney-General *et al.* Petition for
authority to modify trust. Final decree.
- Brown, Josiah W., estate of. Sewall F. Abbott *et al.*, trustees,
petitioners. Petitions for instructions. Decree.
- Church Street Methodist Episcopal Church, petitioner. Peti-
tion for authority to mortgage trust estate. Attorney-Gen-
eral waived right to be heard.
- Cushing, Henriette J., estate of. Constance J. Bessey, execu-
trix, petitioner. Petition for instructions. Decree.
- Dewing Memorial *v.* Attorney-General. Petition for leave to sell
real estate. Pending.
- Dix, John H., estate of. Charles P. Greenough *et al.*, trustees,
petitioners. Petition for allowance of fourteenth and
fifteenth accounts. Attorney-General waived right to be
heard.
- Forbes, Sarah S., estate of. James S. Russell *et al.*, trustees, pe-
titioners. Petition for leave to transfer trust fund. At-
torney-General assented to petition.

- Gurney, Elizabeth F., estate of. Warren Avenue Baptist Church *v.* Attorney-General. Petition for instructions. Decree.
- Hartshorn, Sarah Ella, estate of. John Herbert *et als.*, executors, petitioners. Petition for authority to adjust controversy. Assented to decree.
- Healy, Anna M., estate of. William Ropes Trask, executor, petitioner. Petition for instructions. Pending.
- Jones, Maria, estate of. Ernest V. Munroe, petitioner. Petition for appointment of trustee. Attorney-General waived right to be heard.
- Kingsbury, Jesse, estate of. Conray P. Hall *et al.*, trustees, petitioners. Petition for instructions. Decree.
- Lang, Betsey R., estate of. Enoch Foster, trustee, petitioner. Petition for allowance of third and final account. Pending.
- Lang, Betsey R., estate of. William A. Patten, petitioner. Petition for appointment of trustee. Assented to appointment of William A. Patten as trustee.
- Lawrence, Abbott, estate of. John Lawrence *et al.*, trustees, petitioners. Petition for allowance of twenty-third account. Attorney-General waived right to be heard.
- Lincoln, Annie Preston, estate of. J. Ellwood Lee Company *v.* The Grace Hospital. Petition brought by receivers to collect legacy under will. Decree.
- Liversidge, Thomas, estate of. Richard C. Humphreys *et als.*, trustees, petitioners. Petition for allowance of twenty-sixth to thirty-third accounts, inclusive. Pending.
- Locke, Elbridge W., estate of. Otis Merriam *et al.*, trustees, petitioners. Petition for instructions. Pending.
- Mabie, William I., *et al.*, *v.* Edwin S. Gardner and the Attorney-General. Petition for instructions regarding a public charitable trust under will of Mary Redding. Pending.
- Massachusetts Institute of Technology *v.* Attorney-General. Petition for authority to sell real estate. Attorney-General waived right to be heard.
- Massachusetts Society for the Prevention of Cruelty to Animals *v.* J. Pickering Putnam *et al.* Petition for instructions. Attorney-General waived right to be heard.
- Patterson, Adoniram J., estate of. William N. Swain, trustee, petitioner. Petition for authority to sell real estate. Decree.
- Patterson, Adoniram J., estate of. William N. Swain, trustee, petitioner. Petition for allowance of first and final account. Attorney-General waived right to be heard.

- Peterson, Ellen, estate of. Mary M. Anderson, petitioner. Petition for appointment of trustee. Attorney-General assented to appointment.
- Potter, Sarah E., estate of. New Bedford Free Public Library, petitioner. Petition for instructions. Decree.
- Read, Charles C., *et al. v. The Frances E. Willard Settlement et al.* Petition for instructions. Decree.
- Smith, James, estate of. Samuel M. Jackson *et al.*, trustees, petitioners. Petition for allowance of first and third accounts. Accounts allowed.
- Smith, James, estate of. Willard N. Poland, petitioner. Petition for appointment of trustee. Attorney-General assented to appointment.
- Soren, George Wales, estate of. Lucy E. Buffington, petitioner. Petition for appointment of trustee. Pending.
- Sterling, Virginia A., estate of. William H. Ballou *et al.*, executors, petitioners. Petition for instructions. Pending.
- Thompson, Thomas, estate of. Laurence Minot *et al.*, trustees, petitioners. Petition for allowance of eleventh and twelfth and final accounts. Attorney-General waived right to be heard.
- Thompson, Thomas, estate of. Richards M. Bradley *et al.*, trustees, petitioners. Petition for allowance of first account. Attorney-General waived right to be heard.
- Thorndike, George L., estate of. William A. Morrison *et al.*, trustees, petitioners. Petition for allowance of third and fourth accounts. Accounts allowed.
- Warren Avenue Baptist Church *v. Attorney-General.* Petition for authority to use a certain trust fund. Pending.
- Weber, Frederick E., estate of. George M. Amerige, petitioner. Petition for appointment of trustee. Attorney-General waived right to be heard.
- Whitney, Sarah W., estate of. Charles A. Stone, trustee, petitioner. Petition for leave to sell real estate. Decree.
- Whitney, Sarah W., estate of. Charles A. Stone, trustee, petitioner. Petition for allowance of first and second accounts. Pending.
- Willard Hospital *v. Frances E. Willard Settlement et als.* Petition for instructions. Decree.

Worcester County.

- Bemis, George, estate of. Myron A. Craig *et al.*, trustees, petitioners. Petition for allowance of first account. Attorney-General waived right to be heard.
- Brooks, Sarah, estate of. Thomas H. Russell, petitioner. Petition for appointment as trustee. Attorney-General assented to appointment.
- Cummings, Lurinda, estate of. Moses P. Greenwood, executor, petitioner. Petition for instructions. Pending.
- Fuller, Dana L., estate of. Louie C. Fuller, executrix, petitioner. Petition for instructions. Decree.
- Grout, Eliza P., estate of. Robert L. Carter *et als.*, trustees, petitioners. Petition for allowance of eighth account. Attorney-General waived right to be heard.
- Merriam, Sybil A., estate of. Frank O. Lothrop, petitioner. Petition for appointment of trustees. Attorney-General waived right to be heard.
- Stockwell, George K., estate of. Charles F. Stevens *et al.*, executors, petitioners. Petition for authority to adjust by compromise controversy in regard to will. Decree.
- Williams, Henry, estate of. Reason T. Lee *et als.*, trustees, *v.* Methodist Episcopal Church in the United States *et al.* Petition for instructions. Pending.

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.

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.

Middlesex County.

Robinson, Sumner, *et al.* v. Commonwealth. Settled.

2. METROPOLITAN WATER AND SEWERAGE BOARD.

Petition 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.

Braman, Caroline R., v. Commonwealth. Settled.

Stoneham, Town of, v. Commonwealth. Pending.

Ward, George A., *et als.* v. Commonwealth. Pending.

Worcester County.

Allen, Byron D., v. Commonwealth. Pending.

Allen, Byron D., v. Commonwealth. Pending.

Bradley, Patrick, v. Commonwealth. Pending.

Cutting, Louis, administrator, v. Commonwealth. Pending.

Kendall, Sanford C., v. Commonwealth. Disposed of.

Keyes, Henry F., v. Commonwealth. Disposed of.

Knight, Asa E., v. Commonwealth. Disposed of.

Welch, James E., v. Commonwealth. Disposed of.

Wood, James H., *et al.* v. Commonwealth. Disposed of.

Wood, J. Frank, *et als.* v. Commonwealth. Pending.

Wood, J. Frank, *et als.* v. Commonwealth. Disposed of.

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 this Commonwealth most of these cases are defended by the various towns in which the land is situated.

Barnstable County.

Phillips, Martha B., *et al.*, trustees, *v.* Commonwealth. Settled.

Berkshire County.

Connelly, William H., *v.* Commonwealth. Pending.

Rogerson, Sophia, *v.* Commonwealth. Pending.

Stevens, John A., *et al.* *v.* Commonwealth. Pending.

Bristol County.

Cooper, Frederick P., *v.* Commonwealth. Dismissed.

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

Essex County.

Bishop, Emeline, *v.* Commonwealth. Settled.

Donovan, John, *v.* Commonwealth. Settled.

Perley, Osborne, *v.* Commonwealth. Settled.

Hampshire County.

Flagg, Lucretia Taft, *v.* Commonwealth. Pending.

Nash, Harlan E., *et al.* *v.* Commonwealth. Pending.

Taft, Kate P., *v.* Commonwealth. Pending.

Middlesex County.

Huntington, Herbert R., *v.* Commonwealth. Pending.

Mower, Clara I., *v.* Commonwealth. Pending.

Nourse, Joseph P., *v.* Commonwealth. Pending.

Nourse, Joseph P., *v.* Commonwealth. Settled.

Norfolk County.

Laycock, Berry, *v.* Commonwealth. Settled.

4. BOARD OF HARBOR AND LAND COMMISSIONERS.

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

Suffolk County.

Butler, Philip H., *v.* Commonwealth. Pending.
East Boston Company *v.* Commonwealth. Pending.
Lamb, George, *et al.* *v.* Commonwealth. Pending.
Lamb, George, *et al.* *v.* Commonwealth. Pending.

5. CHARLES RIVER BASIN COMMISSIONERS.

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

Suffolk County.

Apthorp, Octave L., *v.* Commonwealth. Pending.
Barstow, Catherine A., *v.* Commonwealth. Pending.
Brown, Rebecca W., *et al.* *v.* Commonwealth. Pending.
Cotting, Charles E., *et al.*, trustees, *v.* Commonwealth. Pending.
Edmands, Katherine B., *v.* Commonwealth. Pending.
Fields, Annie, *v.* Commonwealth. Pending.
Hooper, James R., *v.* Commonwealth. Pending.
Hooper, Robert C., *et al.* *v.* Commonwealth. Pending.
Inches, Louise P., *v.* Commonwealth. Pending.
Jewell, Edward, *v.* Commonwealth. Pending.
Niles, Sarah F., *et al.* *v.* Commonwealth. Pending.
Parker, George W., *et al.* *v.* Commonwealth. Pending.
Pierce, Katherine C., *v.* Commonwealth. Pending.
Prince, Fannie L., *v.* Commonwealth. Pending.
Prince, Lillian C., *v.* Commonwealth. Pending.
Sears, Mary C., *v.* Commonwealth. Pending.
Sears, Richard D., *v.* Commonwealth. Pending.
Shaw, Francis, *v.* Commonwealth. Pending.
Tarbell, Arthur P., *et al.* *v.* Commonwealth. Pending.
Taylor, Georgianna O., *v.* Commonwealth. Pending.
Taylor, Mary M., *v.* Commonwealth. Pending.
Whitney, Christiana S., *et al.* *v.* Commonwealth. Pending.
Williams, John D., trustee, *v.* Commonwealth. Pending.

6. ARMORY COMMISSIONERS.

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

Berkshire County.

Pittsfield & North Adams Railroad *et al. v.* Commonwealth.
Pending.

Essex County.

Griffin, Henry, *v.* Commonwealth. Pending.

7. STATE BOARD OF INSANITY.

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

Suffolk County.

Beatty, John F., *v.* Commonwealth. Pending.

Callahan, Frank J., *et al. v.* Commonwealth. Settled.

Callahan, George A., *et al. v.* Commonwealth. Pending.

Flint, James H., *et al.*, trustees, *v.* Commonwealth. Pending.

Holbrook, Wellington, *et al. v.* Commonwealth. Pending.

Kiley, Daniel J., *v.* Commonwealth. Pending.

Shea, Julia A., *et als.*, trustees, *v.* Commonwealth. Pending.

8. MOUNT EVERETT RESERVATION COMMISSION.

Berkshire County.

McNaughton, Elizabeth T., *v.* Commonwealth. Pending.

9. MISCELLANEOUS CASES FROM ABOVE COMMISSIONS.

Essex County.

Cilley, Orran G., *v.* Cattle Bureau. Petition to recover the value of cattle condemned by Cattle Bureau. Pending.

Reed, William H., *v.* Commonwealth. Claim for damages on account of injury to horse on State highway in Gloucester. Pending.

Tremblay, Paul, *v.* Commonwealth. Action of tort for injuries caused by defect in State highway in East Boston. Pending.

Middlesex County.

- International Automobile and Vehicle Tire Company *v.* Commonwealth. Petition to recover damages caused by construction of bridge across Charles River under St. 1903, c. 391. Pending.
- McFarland, Mark, *v.* Edward J. Doyle. Claim for damages alleged to have been caused by collision with motorcycle owned by the Metropolitan Park Commission. Pending.

Plymouth County.

- Bates, Abbie L., *v.* Metropolitan Park Commission. Action of tort to recover damages alleged to have been caused by defect in a sidewalk, Nantasket Beach Reservation. Disposed of.

Suffolk County.

- Davis, James A., *et al. v.* Commonwealth *et al.* Petition to recover for labor and materials used in construction of sewer. Pending.
- De las Casas, William B., *et al. v.* Sewer Commissioners of Revere. Petition for injunction to restrain town from obstructing sewer built by the Park Commission for bath house. 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.
- Eastman, Charles Albert, *v.* Board of Registration in Medicine. Bill in equity to enjoin Board from revoking certificate. Pending.
- Ellinwood, Ralph R., Commonwealth *v.* Petition to restrain respondent from infringing park regulations on Revere boulevard. Pending.
- Franklin County Lumber Company *et al. v.* Commonwealth. Claim for money due under contract. Decree.
- Gibbons, William H., *v.* Commonwealth. Damage caused by blasting in construction of metropolitan sewer. Pending.
- H. B. Smith Company *v.* Commonwealth. Claim for money due under contract for Boston State Hospital. Pending.

- Jenkins, Jennie L., *v.* Sumner Coolidge, M.D., superintendent of Lakeville State Hospital. Suit to enforce the provisions of written lease. Disposed of.
- Kinmond, John D., *v.* Commonwealth. Action of tort to recover for injuries caused by defect in State highway in Salisbury. Pending.
- Lake, Alexander G., *v.* Commonwealth. Action of tort to recover for injuries caused by defect in State highway in Natick. Pending.
- McGinniss, Margaret T., Commonwealth *v.* Bill in equity to restrain defendant from encroaching on land of the Commonwealth. Pending.
- National Contracting Company *et al.*, Commonwealth *v.* Action of contract to recover on bond. Pending.
- 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. Pending.
- Old Colony Construction Company, Commonwealth *v.* Action of contract to recover on bond. Pending.
- Pacific Surety Company *v.* Commonwealth *et al.* Petition to recover from McBride & Co. certain sums expended by petitioner. Pending.
- Phillips, Reuben J., *v.* William B. de las Casas *et als.* Petition for writ of mandamus to compel reinstatement of the petitioner as a police sergeant. Rescript.
- Simmons, George H., *v.* Commonwealth. Petition to recover for injuries alleged to have been caused by a defect in a State highway in Whitman. Disposed of.
- Smith, Frederick W., *et al. v.* Commonwealth. Claim for money due under contract for Boston State Hospital. Pending.
- Waterproof Leatherboard Company, Henry H. Sprague *et als.*, Metropolitan Water and Sewerage Board, *v.* Bill of complaint to restrain respondent from discharging factory wastes into Beaver Dam Brook. Pending.

Waterproofing Company, The, *v.* Commonwealth. Claim for money due for labor performed on Psychopathic Hospital. Pending.

Worcester County.

Lamb, Aroline M., *v.* Commonwealth. Petition to recover damages caused by change in grade of highway in Boylston. Disposed of.

10. STATE BOARDS OF CHARITY AND INSANITY.

Actions of contract pending in the Superior Court to recover charges for the support of persons in State hospitals.

Suffolk County.

Chapin, Treasurer, *v.* Charles A. Mullin. Pending.
 Stevens, Treasurer, *v.* Warren M. Andrews. Pending.
 Stevens, Treasurer, *v.* Boston. Pending.
 Stevens, Treasurer, *v.* Boston. Pending.
 Stevens, Treasurer, *v.* Boston. Pending.
 Stevens, Treasurer, *v.* Boston. Pending.
 Stevens, Treasurer, *v.* Charles F. Bushby. Pending.
 Stevens, Treasurer, *v.* Caroline R. Clasby. Pending.
 Stevens, Treasurer, *v.* Caroline R. Clasby. Pending.
 Stevens, Treasurer, *v.* Mary E. Clasby. Pending.
 Stevens, Treasurer, *v.* Joseph C. Colligan. Pending.
 Stevens, Treasurer, *v.* John J. Cronin, administrator of the estate of Mary Murphy. Pending.
 Stevens, Treasurer, *v.* Catherine Darcy. Settled.
 Stevens, Treasurer, *v.* Bertie L. Dow. Settled.
 Stevens, Treasurer, *v.* Fall River. Pending.
 Stevens, Treasurer, *v.* John Grieneeks. Pending.
 Stevens, Treasurer, *v.* Michael Harper, guardian. Pending.
 Stevens, Treasurer, *v.* Lowell. Pending.
 Stevens, Treasurer, *v.* New Bedford. Pending.
 Stevens, Treasurer, *v.* Newton. Pending.
 Stevens, Treasurer, *v.* Newton. Pending.
 Stevens, Treasurer, *v.* Emma C. Russell, guardian. Pending.
 Stevens, Treasurer, *v.* Rutland. Pending.
 Stevens, Treasurer, *v.* Josiah Ryder. Pending.
 Stevens, Treasurer, *v.* Thomas J. Sexton, guardian. Pending.
 Stevens, Treasurer, *v.* Julia Tully. Pending.
 Stevens, Treasurer, *v.* Louise C. Westcott. Pending.

MISCELLANEOUS CASES.

- A. C. Lawrence Leather Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Final decree.
- A. C. Lawrence Leather Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- A. C. Lawrence Leather Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- Abbott, Lilian, administratrix of the estate of Eunice M. Abbott, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Abington Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Ahmeek Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Ahmeek Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Ahmeek Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Aldrich, Frank E., petitioner. Petition to register title to land in Northfield. Pending.
- Algolah Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Algolah Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Allain, Marguerite, administratrix of the estate of Maxime T. Allain, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Decree.

- Allouez Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Allouez Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Amalgamated Nevada Mines Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Amalgamated Nevada Mines Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- American Agricultural Chemical Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- American Agricultural Chemical Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- American Axe and Tool Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- American Axe and Tool Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- American Bank Note Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- American Bank Note Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- American Brass Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- American Brass Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- American Can Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- American Can Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

- American Can Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- American Chicle Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- American Chicle Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- American Dyewood Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- American Dyewood Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- American Hide and Leather Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- American Hide and Leather Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- American Investment Securities Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- American Investment Securities Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- American Laundry Machinery Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- American Locomotive Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.
- American Locomotive Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- American Piano Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- American Pneumatic Service Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.

- American Pneumatic Service Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- American Radiator Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- American Radiator Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- American Radiator Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- American Seating Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.
- American Seating Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- American Soda Fountain Company, Attorney-General *ex rel.* *v.* Dumping material into tide water. Pending.
- American Soda Fountain Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.
- American Soda Fountain Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- American Soda Fountain Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- American Steel and Wire Company of New Jersey *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- American Steel and Wire Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- American Steel and Wire Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- American Sugar Refining Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Final decree.

- American Thread Company of New Jersey *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- American Thread Company of New Jersey *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- American Woolen Company *v.* Commonwealth. Petition to recover excise tax for the years 1909 and 1910 paid by foreign corporation. Pending.
- American Woolen Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- American Woolen Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Ames Shovel and Tool Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Ames Shovel and Tool Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Amoskeag Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Amoskeag Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Anderson, Mary J., administratrix of the estate of Elizabeth P. Anderson, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Andover Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Androscoggin Mills *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Final decree.
- Androscoggin Mills *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.
- Androscoggin Mills *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.

- Arizona Commercial Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Arlington Five Cents Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Pending.
- Armstrong Cork Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Armstrong Cork Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Armstrong Cork Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Asbestos Protected Metal Company *v.* Commonwealth. Petition for abatement of franchise tax. Pending.
- Ashland Emery and Corundum Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Ashland Emery and Corundum Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Ashland Emery and Corundum Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Atlas Tack Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Atlas Tack Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Attleborough Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- B. F. Goodrich Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Ball, Eustace H., executor of the will of Harriet S. Ball, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Baltic Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Decision from United States Supreme Court.

- Baltic Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Baltic Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Barre Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Bates Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Bates Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Belding Brothers & Co. *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Belding Brothers & Co. *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Berry Brothers, Ltd. *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Berry Brothers, Ltd. *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Bingham Mines Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Blake & Knowles Steam Pump Works *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Bleiler, Frederick, *v.* Commissioner of Animal Industry. Claim for damages for death of horse. Pending.
- Bohemia Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Boston & Corbin Copper and Silver Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Boston & Northern Street Railway Company. Claim for amount expended in relaying water pipes in Washington Street, Lynn, destroyed by electric currents. Pending.

- Boston & Roxbury Mill Corporation, petitioner for dissolution. Petition of the Commonwealth for leave to intervene. Pending.
- Boston & Worcester Street Railway Company *v.* Board of Railroad Commissioners. Petition for modification of ruling by Railroad Commissioners. Pending.
- Boston Bedding Supply Company *v.* Commonwealth *et al.* Petition for assessment of damages alleged to have been caused by the passage of legislation restricting the right to draw water from the Charles River during certain seasons. Pending.
- Boston Five Cents Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Boston Railroad Holding Company *v.* Commonwealth. Petition for abatement of franchise tax. Rescript.
- Boston Safe Deposit and Trust Company, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Boston Securities Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Boston Securities Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Bosworth, Charles O., executor of the will of John P. Campion, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Brackett, Arthur L., *v.* Commonwealth. Petition for assessment of damages caused by the erection of the new "Stadium Bridge." Charles K. Darling, John T. Swift and Joseph A. Conry appointed commissioners. Pending.
- Breakwater Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Breakwater Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Brennan, James M., *v.* Charles E. Woodbury, Superintendent. Action of tort for personal injuries. Pending.
- Bridgewater Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.

- Briggs, Benjamin F., *v.* Elmer A. Stevens, Treasurer and Receiver-General. Appeal from decree of Land Court. Pending.
- Brighton Five Cents Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Bristol County Savings Bank, Taunton, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Broadway Savings Bank, Lawrence, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Brookline Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Brookside Mills *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Brookside Mills *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Brookside Mines *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Brown, Maud F., *v.* Charles T. Davis *et al.*, judges of the Land Court *et al.* Petition for writ of prohibition. Pending.
- Browning, King & Co. *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Bryne, Andrew W., *et als.* *v.* Commonwealth *et al.* Petition to recover money in hands of Commonwealth. Pending.
- Buick Motor Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- Bulkeley, Morgan C., *et al.* *v.* New York, New Haven & Hartford Railroad Company and the Public Service Commission. Petition for annulment of an order of the Public Service Commission approving the issue of certain debenture bonds by the New York, New Haven & Hartford Railroad Company. Pending.
- Burke, Edmund, administrator of the estate of John Kelley, Attorney-General *ex rel.* *v.* Petition to recover inheritance tax. Pending.

- Bush, Samuel D., executor of the will of Martha E. Richmond, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Final decree.
- Busteed, Emma M., *et als. v.* Commonwealth. Petition for recovery of an escheated estate. Decree.
- Butchers' Slaughtering and Melting Association *v.* Commonwealth. Petition for assessment of damages caused by the erection of the new "Stadium Bridge." Charles K. Darling, John T. Swift and Joseph A. Conry appointed commissioners. Pending.
- Calumet & Hecla Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Calumet & Hecla Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Cambridgeport Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Pending.
- Campbell, Mary, *et al.*, administrators of the estate of Ellen Mahoney, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Decree.
- Canada, Atlantic & Plant Steamship Company Ltd. *v.* Commonwealth. Petition to recover excise taxes for the years 1905, 1906, 1907, 1908 and 1909 paid by foreign corporation. Pending.
- Cape Ann Savings Bank, Gloucester, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Cape Cod Five Cents Savings Bank, Harwich, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Cate, Martha G., petitioner. Petition to register title to land in Ashland. Decree.
- Centennial Copper Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Centennial Copper Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Chamber of Commerce of the State of New York *v.* New York Central & Hudson River Railroad Company *et als.* Petition to intervene in differential rate cases. Pending.

- Champion Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Champion Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1911. Paid by foreign corporation. Pending.
- Champion Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Charles H. Schieren Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Charlestown Five Cents Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Chase, William E., *et als.*, petitioners. Petition to register title to land in Newburyport. Pending.
- Chattel Loan Company, E. Gerry Brown, Supervisor of Loan Agencies, *v.* Bill in equity to enjoin defendant from charging rates of interest higher than ordered by plaintiff. Injunction issued.
- Chelsea Day Nursery and Children's Home *v.* Rufus S. Frost General Hospital. Bill of complaint to compel defendant to perform contract. Pending.
- Cheney Brothers *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Cheney Brothers *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Children's Health Fund, Attorney-General *v.* Information in the nature of *quo warranto* to test the right of the corporation to continue to exercise its franchise as a charitable corporation. Pending.
- Childs' Dining Hall Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Childs' Dining Hall Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- City Five Cents Savings Bank, Haverhill, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- City Institution for Savings, Lowell, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Pending.

- Clapp, George W., executor of the will of Elmira S. Hinman, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Clinton Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Coblents, Salenda E., executrix of the will of Arthur A. Averille, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Dismissed.
- Columbian National Life Insurance Company *v.* Commonwealth. Petitions for abatement of franchise tax paid in 1903, 1904, 1905, 1906 and 1907. Pending.
- Commonwealth *v.* New York, New Haven & Hartford Railroad Company. Action of tort for damage to property of Massachusetts Reformatory, caused by fire. Pending.
- Commonwealth *v.* Worcester. To recover for land taken from the Commonwealth. Pending.
- Consolidated Rendering Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- Consolidated Rendering Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- Consolidation Coal Company *v.* Commonwealth. Petition to recover excise tax for the year 1909 paid by foreign corporation. Pending.
- Consolidation Coal Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Consolidation Coal Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Continental Gin Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Continental Gin Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Continental Mills *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Copper Range Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.

- Copper Range Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Copper Range Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Copper Range Consolidated Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Copper Range Consolidated Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Costello, Michael E., executor of the will of Catherine Costello, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Creaden, William T., administrator of the estate of Nellie Reardon, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Cudahy Packing Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Currier, John E., administrator of the estate of Caroline E. Currier, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Decree.
- Curtis Publishing Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Curtis Publishing Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Curtis Publishing Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Cushman, Ernest W., executor of the will of Martha C. Roberts, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Decree.
- Danvers Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Davis Sewing Machine Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.

- Davis Sewing Machine Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Dean, John J., *et al.*, executors of the will of Thomas H. Buckley, Attorney-General *ex rel.* *v.* Petition to recover inheritance tax. Pending.
- Dedham Institution for Savings, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Dedham Institution for Savings, Attorney-General *v.* Petition for withdrawal of deposits under R. L., c. 113, § 55. Decree.
- Dewey, Henry S., *v.* State Officers. Actions to replevy copies of notes of proceedings in the case of Dewey *v.* Good Government Association. Pending.
- Dineen, Timothy, executor of the will of Julia Dineen, Attorney-General *ex rel.* *v.* Petition to recover inheritance tax. Pending.
- di Pesa, Alfred, petitioner. Petition for registration of title to land. Pending.
- Dolan, Arthur W., Register of Probate and Insolvency for the County of Suffolk, petitioner. Petition for authority to pay to the Treasurer and Receiver-General money deposited with said register to secure payment of fees. Disposed of.
- Donahue, Abbie A., executrix of the will of Abbie McDonald, Attorney-General *ex rel.* *v.* Petition to recover inheritance tax. Pending.
- Draper Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Drohan, John, executor of the will of Anastasia Clapp, Attorney-General *ex rel.* *v.* Petition to recover inheritance tax. Pending.
- E. H. Rollins & Sons *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- E. I. du Pont de Nemours Powder Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.
- E. I. du Pont de Nemours Powder Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.

- Earl & Wilson *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- Earl & Wilson *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- East Boston Company *v.* Directors of the Port of Boston. Writ of entry. Pending.
- East Boston Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- East Butte Copper Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- East Butte Copper Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- East Cambridge Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Pending.
- Edgerly, Frank H., *et al.* *v.* Cattle Bureau. Bill to recover for horse killed by order of Cattle Commissioner under R. L., c. 90. Pending.
- Edwards Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Edwards Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Eliot Five Cents Savings Bank, Boston, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Elm River Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Ennis, John D., *et al.*, administrators of the estate of Edmund Walsh, Attorney-General *ex rel.* *v.* Petition to recover inheritance tax. Pending.
- Essex Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Everett, Willard S., executor of the will of Elizabeth Davis, Attorney-General *ex rel.* *v.* Petition to recover inheritance tax. Disposed of.

- Everton, Elfonso I., administrator of the estate of Charles H. Dimond, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- F. Blumenthal Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Fairbanks Company *v.* Commonwealth. *Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Fairbanks Company *v.* Commonwealth. Petition for recovery of excise tax for the year 1912 paid by foreign corporation. Pending.
- Fall River Five Cents Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Fall River Gas Works Company *v.* Board of Gas and Electric Light Commissioners. Petition for certiorari. Rescript.
- Fall River Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Fallon, Patrick H., administrator of the estate of Frank J. Fallon, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Decree.
- Farr Alpaca Company *v.* Commonwealth. Petition for abatement of franchise tax for the year 1912. Pending.
- Field, John Q. A., executor of the will of Caroline Wood, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Fields, Annie, *v.* Charles River Basin Commission. Bill to enjoin Commonwealth from interfering with riparian rights on Charles River. Pending.
- Fifield, George W., executor of the will of Ruth S. Shaw, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Fishley, Cora O., executrix of the will of Edward E. Fishley, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Fleming, Henry E., *v.* State Board of Health. Appeal from an order of the State Board of Health in regard to the use of ice cut from Flax Pond. Pending.
- Foss-Hughes Company *v.* Commonwealth. Petition for abatement of franchise tax. Pending.

- Fowler, Charles E., executor of the will of Eliza E. Crocker, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Foxborough Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Francis, Corabelle G., petitioner. Petition to register title to land in Wayland. Decree.
- Franklin Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Franklin Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Free Home for Consumptives, Attorney-General *v.* Information in the nature of *quo warranto* to annul the charter of the respondent because of the misuse of its charter privileges and franchises. Pending.
- Frontenac Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Frontenac Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Galena Signal Oil Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Galvin, Stephen P., administrator of the estate of Calvin R. Baker, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Gamewell Fire Alarm Telegraph Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Gamewell Fire Alarm Telegraph Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- General Baking Powder Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- Georgia Home Insurance Company *v.* Commonwealth. Action to compel Treasurer and Receiver-General to return bond deposited with him by said company. Pending.

- Globe-Wernicke Company, The, *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.
- Globe-Wernicke Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- Gloucester, City of, James M. Swift, Attorney-General, *v.* Petition for writ of mandamus to compel said city to establish a hospital for persons ill with contagious diseases. Writ issued.
- Gorton-Pew Fisheries Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Gorton-Pew Fisheries Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Grant, Robert, Judge of Probate, *v.* William W. Risk *et al.* Contract on bond as public administrator. Pending.
- Gratiot Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Gratiot Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Gratiot Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Great Atlantic & Pacific Tea Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Great Atlantic & Pacific Tea Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Great Barrington Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Great Western Cereal Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Griffin Wheel Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.

- Griffin Wheel Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- Gutta-Percha and Rubber Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- H. & B. American Machine Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- H. J. Heinz Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Final decree.
- H. J. Heinz Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.
- H. J. Heinz Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- H. W. Johns-Manville Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- H. W. Johns-Manville Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- Hale, Josiah L., executor of the will of Pauline H. Patterson, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Handrahan, James E., administrator of the estate of Margaret Handrahan, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Decree.
- Harmon, Rollin H., Judge of Probate, *v.* Samuel D. Hildreth *et al.* Action to recover on administrators' bond. Pending.
- Harrington, Charles C., executor of the will of Elizabeth A. Harrington, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Hastings, George A., *v.* Commonwealth. Petition to recover unclaimed bank deposit in the hands of the Treasurer. Pending.
- Haverhill Gas Light Company *v.* Forrest E. Barker *et als.*, Board of Gas and Electric Light Commissioners *et al.* Bill of complaint brought in the United States Circuit Court to restrain the Board of Gas and Electric Light Commissioners

from enforcing an order in regard to the price of gas.
Pending.

Haverhill Gas Light Company, Attorney-General *v.* Information in equity to restrain respondent from transferring its franchises and property. Reserved for full court.

Haverhill Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.

Healy, Mary, executrix of the will of Patrick Healy, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.

Hecker-Jones-Jewell Milling Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.

Hecker-Jones-Jewell Milling Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

Henry K. Wampole & Co., Inc., *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.

Herbert, John, executor of the will of Edward T. Cowdrey, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Decree.

Hill, Anna C., *v.* Old Colony Trust Company. Petition of Treasurer and Receiver-General for leave to intervene. Decree.

Hill, Sarah T., executor of the will of Rowena Hill, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.

Holden, Nicholas F., *v.* Civil Service Commission. Petition for writ of mandamus to compel the respondents to authorize the reinstatement of the petitioner as a member of the police department of Worcester. Pending.

Houghton Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.

Houghton Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

Houghton, Neidhard H., administrator of the estate of Julius H. Houghton, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.

- Howes Brothers Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.
- Howes Brothers Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- Hyde Park Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Institution for Savings in Newburyport, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- International Automobile and Vehicle Tire Company *v.* Commonwealth. Petition for damages to petitioner's property caused by change of east branch of Charles River by Park Commission. Pending.
- Isle Royale Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Isle Royal Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- J. A. Selsman Company, Bankers, Inc., Augustus L. Thorndike, Bank Commissioner, *v.* Information to enjoin the defendant corporation from doing further business. Injunction issued and Frank Leveroni, Esq., appointed receiver.
- Jackson Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Jackson Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Jackson, Ethel M., administratrix of the estate of George F. Bailey, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Jacob Dold Packing Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- James Cunningham Son & Co. *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- James Cunningham Son & Co. *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

- Jenney, E. C., executor of the will of Maria P. Stark, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Jennings, Malachi L., administrator of estate of Mary McGeehan, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- John L. Whiting-J. J. Adams Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- John L. Whiting-J. J. Adams Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- John P. Squire Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Final decree.
- John P. Squire & Co. *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- John P. Squire & Co. *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- Judkins, C. Ernest, executor of the will of Gertrude I. Sawyer, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Kenny, Thomas J., administrator *d. b. n.* of the estate of Joseph H. Horgan, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Disposed of.
- Keystone Watch Case Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Rescript.
- Keystone Watch Case Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- King Philip Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Lake Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Lake Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

- Lake Milling, Smelting and Refining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Lake Milling, Smelting and Refining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Lake Superior Smelting Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Lamont-Corliss Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Lamont-Corliss Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Lamson Consolidated Store Service Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Lanston Monotype Machine Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Lanston Monotype Machine Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Lanston Monotype Machine Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- LaSalle Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- LaSalle Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- LaSalle Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Laurium Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Laurium Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

- Lawrence Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Lehigh Valley Coal Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- Lehigh Valley Coal Sales Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Decree.
- Leland, Percy F., petitioner. Petition for registration of title to land in Ashland. Pending.
- Leominster Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Lever Brothers Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Lever Brothers Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Libby, George W., administrator of the estate of Oliver Libby, Attorney-General *ex rel v.* Petition to recover inheritance tax. Pending.
- Library Bureau *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Library Bureau *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Link-Belt Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- Link-Belt Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- Liquid Carbonic Company, The, *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Liquid Carbonic Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Little, George T., *et al.*, executors of the will of Rachel R. Thayer, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Disposed of.

- Locomobile Company of America *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Locomobile Company of America *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- LoPiano, Peter, Augustus L. Thorndike, Bank Commissioner, *v.* Information in equity for writ of injunction and appointment of receiver. Pending.
- Lowell, City of, James M. Swift, Attorney-General, *v.* Petition for writ of mandamus to compel said city to establish a hospital for persons ill with contagious diseases. Writ issued.
- Lowell Five Cents Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Pending.
- Lowell Institution for Savings, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Pending.
- Lynn Institution for Savings, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Mahar, Joseph P., executor of the will of Thomas J. Rehill, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Manchester, Abraham, executor of the will of Abraham E. Manchester, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Manitou Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Manitou Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Marconi Wireless Telegraph Company of America *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Marlborough Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Pending.
- Martin L. Hall Company *v.* Commonwealth. Petition for abatement of franchise tax. Rescript.
- Massachusetts Catholic Order of Foresters *v.* Elmer A. Stevens, Treasurer and Receiver-General. Petition for writ of man-

damus to compel respondent to deliver securities to petitioner. Pending.

Massachusetts Consolidated Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.

Massachusetts Consolidated Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

Massachusetts Institute of Technology *v.* Boston Society of Natural History *et als.* Petition brought in the Land Court for instructions as to certain alleged easements in land bounded by Berkeley, Boylston, Clarendon and Newbury streets, Boston. Pending.

Mayflower Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.

Mayflower Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

McCann, Charles J., *et al. v.* Charles Warren *et als.*, Civil Service Commissioners. Petition for writ of mandamus to compel certification of the petitioners' names by the Civil Service Commissioners. Decree. Appeal by petitioners.

McClusky, Clara B., executrix of the will of Annie B. Dunn, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.

McColiff, Julia, petitioner. Petition for writ of habeas corpus. Petition dismissed.

McColiff, Julia I., petitioner. Petition for writ of habeas corpus. Petition dismissed.

McDonald, Theodore H., Insurance Commissioner of Connecticut *v.* The Etna Indemnity Company. Intervening petition of the Commonwealth of Massachusetts. Pending.

McGuirk, Ann, executrix of the will of Terrence Farley, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.

McIntire, Charles H., trustee under the will of Maria T. Clark, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.

McLoughlin, Francis J., petitioner. Petition for registration of title to land in Becket. Pending.

- Mead-Morrison Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Mechanics Savings Bank, Lowell, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Pending.
- Metropolitan Life Insurance Company *v.* Commonwealth. Petition to recover excise taxes for the years 1909 and 1910 paid by foreign corporation. Pending.
- Michigan Smelting Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Midvale Steel Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Midvale Steel Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Moore, Mary, executrix of the will of Ellen M. Aston, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Moore, William H., *et al.*, executors of the will of Edward W. Murray, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Morgan, Thomas, *et al.*, executors of the will of Martha Frankland, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Disposed of.
- Morse, Electra A., *et al. v.* David Ferguson *et al.* Action of tort. Pending.
- Moulton, Abbie L., petitioner. Petition for writ of error. Rescript.
- Murphy, James S., administrator *c. t. a.* of the estate of Charles H. Young, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Murphy, Mary E., executor of the will of Delia Martin, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Murphy, Michael, *v.* Harrie W. Pierce, Agent of the Commissioner of Animal Industry. Claim for damages for death of horse. Pending.
- N. K. Fairbank Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.

- N. K. Fairbank Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- N. K. Fairbank Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Nantucket Institution for Savings, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Disposed of.
- Nashua Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Nashua Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Natick Five Cents Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Pending.
- National Calfskin Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Final decree.
- National Calfskin Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- National Calfskin Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- National Casket Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- National Casket Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- National Contracting Company *v.* Commonwealth. Petition to recover under R. L., c. 201. Pending.
- New Bedford Five Cents Saving Bank, Attorney-General *v.* Five petitions for withdrawal of deposits under R. L., c. 113, § 55. Disposed of.
- New Bedford Five Cents Saving Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.

- New Bedford Institution for Savings, Attorney-General *v.* Two petitions for withdrawal of deposits under R. L., c. 113, § 55. Decree.
- New Bedford Institution for Savings, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Disposed of.
- Newburyport Five Cents Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- New England Dressed Meat and Wool Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Final decree.
- New England Dressed Meat and Wool Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- New England Dressed Meat and Wool Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- New England Maple Syrup Company *v.* Henry P. Walcott *et als.* Bill in equity for an injunction. Pending.
- New England Trust Company of Boston, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Newport Fisheries, Ice and Cold Storage Company *v.* Commonwealth. Petition for abatement of franchise tax for the year 1912. Pending.
- North Easton Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- North End Savings Bank, Boston, Attorney-General *v.* Petition for withdrawal of deposits under R. L., c. 113, § 55. Pending.
- North End Savings Bank, Boston, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- North Packing and Provision Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Final decree.
- North Packing and Provision Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- North Packing and Provision Company *v.* Commonwealth. Pe-

tion to recover excise tax for the year 1913 paid by foreign corporation. Final decree.

Northwestern Consolidated Milling Company, The, *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.

Northwestern Consolidated Milling Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

Nye, Helen M. S., executrix of the will of Sarah E. Lane. Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.

O'Connor, John J., administrator of the estate of Charles O'Connor, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Decree.

Odd Fellows Mutual Relief Association of Worcester County, Attorney-General *ex rel. v.* Information at the relation of the Insurance Commissioner for violation of insurance laws. Injunction issued and Alfred S. Pinkerton appointed receiver.

O'Donohue, Lillie B., executrix of the will of Joseph J. O'Donohue, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.

Ohls, Frederick W., *et al.*, State Board of Charity *v.* Action to recover on bond. Pending.

Old Colony Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.

Old Colony Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

Old Colony Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.

Oliver Typewriter Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.

Oliver Typewriter Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

Oliver Typewriter Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.

- Osceola Consolidated Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Osceola Consolidated Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Osceola Consolidated Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Oxford Linen Mills *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Oxford Linen Mills *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Palmer Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Parker, Galen A., executor of the will of Martha R. Temple, Attorney-General *ex rel.* *v.* Petition to recover inheritance tax. Pending.
- Parmenter, Freeman A., petitioner. Petition for registration of title to land in Dover. Pending.
- Patten, Ina F., administratrix of the estate of Carrie M. Fitz. Attorney-General *ex rel.* *v.* Petition to recover inheritance tax. Pending.
- Peoples Savings Bank, Worcester, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Pepperell Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Final decree.
- Pepperell Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.
- Pepperell Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- Pillsbury Flour Mills Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Pillsbury Flour Mills Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

- Piper, Edith B., executrix of the will of Frederick B. Fanning. Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Plymouth Five Cents Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Plymouth Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Pocahontas Fuel Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Pocahontas Fuel Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Pope Manufacturing Company, The, *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Porter, Rose M., *v.* Frank H. Hardison. Action of tort. Pending.
- Providence Ice Company *v.* Commonwealth. Petition to recover excise tax for the years 1910 and 1911 paid by foreign corporation. Final decree.
- Providence Ice Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- Providence Ice Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- Provident Institution for Savings, Amesbury, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Quaker Oats Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Quaker Oats Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Ramsdell, Hattie, petitioner. Petition for writ of habeas corpus for discharge of Elton Ramsdell *et als.* from the custody of the State Board of Charity. Pending.
- Reed, Andrew F., *et al.*, petitioners. Petition in equity for removal of certain restrictions on land, Nantasket Beach Reservation. Pending.

- Regal Shoe Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Regal Shoe Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Reilley, William J., *et al.*, executors of the will of Charles A. Goessman, Attorney-General *ex rel.* *v.* Petition to recover inheritance tax. Pending.
- Rice & Hutchins, Incorporated, *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Rice & Hutchins, Incorporated, *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Richardson Silk Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Richardson Silk Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Richardson Silk Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Riley, Richard G., *v.* Commonwealth of Massachusetts. Writ of error to the Superior Court of Bristol County to set aside a conviction for violation of the law governing the employment of women in factories. Pending in Supreme Court of the United States.
- Ritchie, Christina, *v.* Treasurer and Receiver-General. Action of contract under R. L., c. 128, § 96. Pending.
- Roche, Teresa G., administratrix of the estate of Mary A. Roche, Attorney-General *ex rel.* *v.* Petition to recover inheritance tax. Pending.
- Rockland-Rockport Lime Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Russell-Miller Milling Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Russell-Miller Milling Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

- S. S. White Dental Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Decision from United States Supreme Court.
- S. S. White Dental Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Salem Five Cents Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Salem Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Salisbury Land and Improvement Company, petitioner. Petition for registration of land in Salisbury. Rescript.
- Saxonville Mills, petitioner. Petition for registration of land in Framingham. Pending.
- Seager Engine Works *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Sealshipt Oyster System *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Sealshipt Oyster System *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Seamen's Savings Bank, Provincetown, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Seneca Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Shannon Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- Shannon Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Shapleigh, Samuel B., executor of the will of Ellen L. Shapleigh, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Shepard & Morse Lumber Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.

- Shepard Norwell Company, James M. Swift, Attorney-General, *v.* Petition for temporary injunction to restrain the respondent from permitting the emission of smoke from a smokestack on its property, in violation of an order of the Board of Gas and Electric Light Commissioners. Injunction issued.
- Shields, Mary Ellen, executrix of the will of Mary Ducey, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Decree.
- Shumway, Dwight F., *et als.*, Attorney-General *v.* Application for the use of the Attorney-General's name in an information in equity to restrain the respondents and all other persons from holding a fair upon the public park or common or elsewhere in the town of Belchertown. Use of name allowed.
- Silver Fox Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Simons, Charles L., *v.* Commonwealth. Claim for reward offered by Commonwealth for apprehension of the murderer of Martha B. Blackstone. Pending.
- Skehill, Patrick J., administrator of the estate of John E. Skehill, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Slade, Ruthven Tucker, *v.* Commonwealth. Petition to recover bank deposit in hands of Treasurer. Pending.
- Smith & Dove Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Smith, Mary E., executrix of the will of Philip Smith, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Decree.
- Southbridge Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- South Lake Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- South Lake Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

- Springfield Breweries Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Springfield Breweries Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Springfield Provision Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- Springfield Provision Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- St. Mary's Mineral Land Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- St. Mary's Mineral Land Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Stafford Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Stafford Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Standard Plunger Elevator Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Stone, Ann Elizabeth, Attorney-General *v.* Information for collection of inheritance tax. Decree.
- Stone, Frank Victor, Attorney-General *v.* Information for collection of inheritance tax. Decree.
- Stone, Stephen Stoddard, Attorney-General *v.* Information for collection of inheritance tax. Decree.
- Stoughton Mills, Incorporated, Attorney-General *ex rel. v.* Bill in equity to enjoin defendant from discharging waste into Neponset River. Pending.
- Submarine Signal Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Submarine Signal Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.

- Suffolk Savings Bank, Boston, Attorney-General *v.* Two petitions for withdrawal of deposits under R. L., c. 113, § 55. Decree.
- Sullivan, Joseph M., administrator of the estate of Willis F. Day, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Decree.
- Superior Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Superior Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Swampscott, Town of, *v.* Richard L. Beyer. Appeal from order of inspector of factories and public buildings. Pending.
- Swan, Julia T., *et al.*, executors of the will of Estella P. Tilden, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Decree.
- Swift & Co. *v.* Commonwealth. Petition to recover excise tax for the years 1910 and 1911 paid by foreign corporation. Final decree.
- Swift & Co. *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Final decree.
- Swift & Co. *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- Tamarack Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Tamarack Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Tarbell, Arthur P., *v.* Boston Athletic Association *et al.* Bill in equity to enjoin defendant from building a boathouse on Charles River basin. Disposed of.
- Taunton Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Templeton Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Trimountain Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Trimountain Mining Company *v.* Commonwealth. Petition to

- recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Turley, Thomas J., *et al.*, administrators of the estate of Mary Benson, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Union Copper Land and Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Union Copper Land and Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Union Copper Land and Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Union Institution for Savings, Boston, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Union News Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Union News Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Union Savings Bank, Fall River, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Union Square Methodist Episcopal Church, petitioner. Petition to register title to land in Charlestown. Pending.
- United States Radiator Corporation *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.
- United States Radiator Corporation *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- United States Worsted Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Final decree.
- United States Worsted Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.
- Upham, George F., petitioner. Petitioner for registration of title to land in North Brookfield. Pending.

- Valvoline Oil Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Valvoline Oil Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Victoria Copper Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Victoria Copper Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Victoria Copper Mining Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Pending.
- Vining, Floretta, executrix of the will of Elizabeth Jacobs, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- W. L. Douglas Shoe Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Walen, William W., administrator of the estate of Almira C. Walen, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Walpole Rubber Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Walpole Rubber Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Waltham Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Pending.
- Waltham Watch Company *v.* Commonwealth. Action to recover corporation tax for 1908. Pending.
- Walton, John E., executor of the will of Delia Walton, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Decree.
- Ward Baking Company *v.* Commonwealth. Petition to recover excise tax for the year 1913 paid by foreign corporation. Final decree.
- Ward-Corby Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.

- Wareham Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Warren Brothers Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.
- Warren Five Cents Savings Bank, Peabody, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Warren Institution for Savings, Boston, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Watt, William D., executor of the will of Mary J. Pierson, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Webster Five Cents Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Welch, Mary Ann, executrix of the will of Thomas Welch, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.
- Welch, William J., *v.* John A. Campbell. Action of tort. Pending.
- Welch, William J., *v.* Hosea M. Quimby, superintendent. Action of tort. Pending.
- Wellfleet Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Welsbach Street Lighting Company of America *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Welsbach Street Lighting Company of America *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Westinghouse, Church, Kerr & Co. *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Westinghouse, Church, Kerr & Co. *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Whitaker, Elbridge J., executor of the will of Oliver Everett, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Pending.

- Whitall-Tatum Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Whitall-Tatum Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- White Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- White Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- White Pine Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- White Pine Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- White Sewing Machine Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- White Sewing Machine Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Whiting, Alonzo B., administrator of the estate of Alvah Linwood Whiting, petitioner. Petition to recover unclaimed bank deposit in the hands of the Treasurer and Receiver-General. Attorney-General waived right to be heard.
- Wild, Amy P., petitioner. Petition to register title to land in Charlestown. Attorney-General waived right to be heard.
- William L. Gilbert Clock Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- William L. Gilbert Clock Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.
- Winona Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Winona Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1912 paid by foreign corporation. Pending.

- Winslow Brothers & Smith Company, Attorney-General *ex rel. v.* Bill in equity to restrain defendant from discharging waste into Neponset River. Pending.
- Woburn Five Cents Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Pending.
- Worcester County Institution for Savings, Worcester, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Worcester Five Cents Savings Bank, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Worcester Trust Company of Worcester, Attorney-General *v.* Petition for withdrawal of deposits under St. 1908, c. 590, § 56. Decree.
- Wrinn, James J., administrator of the estate of Genevieve F. Hickey, Attorney-General *ex rel. v.* Petition to recover inheritance tax. Dismissed.
- Wyandot Copper Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.
- Wyman, Hattie E., *v.* Commonwealth. Petition to recover savings bank deposit in hands of the Treasurer. Pending.
- Yale & Towne Manufacturing Company, The, *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Final decree.
- York Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1910 paid by foreign corporation. Pending.
- York Manufacturing Company *v.* Commonwealth. Petition to recover excise tax for the year 1911 paid by foreign corporation. Pending.

COLLECTIONS.

Collections have been made by this department as follows: —

Corporation taxes for the year 1912, overdue and referred by the Treasurer of the Commonwealth to the Attorney- General for collection,	\$167,668 35
Interest,	1,391 22
Costs,	2,452 84
Miscellaneous,	113,259 42
Total,	\$284,771 83

The following table shows a detailed statement of the Corporation Taxes: —

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
A. Edgecomb Company,	\$292 01	\$1 17	\$293 18
A. Homer Skinner Lumber Com- pany,	718 80	12 94	731 74
A. L. Banks & Co., Inc.,	46 61	47	47 08
A. P. Downs Company,	90 71	45	91 16
A. P. Nardini Company,	175 80	88	176 68
A. S. Norss Company,	973 97	6 02	979 99
A. S. Tucker Company,	16 11	—	16 11
A. W. Chesterton Company,	630 74	1 89	632 63
Aaron F. Smith Company,	1,144 04	4 20	1,148 24
Adams Pond Company,	23 36	12	23 48
Airey & Place Company,	53 91	28	54 19
Albany Supply and Chemical Company,	34 75	1 14	35 89
Aldis Owen Hall's System of Busi- ness Enterprises, Inc.,	7 40	10	7 50
Alley & Emery, Inc.,	355 80	18 14	373 94
Alpha Investment Company,	16 00	10	16 10
Alynbrooke Press, Inc.,	89 85	—	89 85
American Belting and Tanning Company,	318 59	8 28	326 87
American Cloak Company,	150 94	75	151 69
American Color and Chemical Company,	10 00	—	10 00

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
American Cork Company, Inc., .	\$140 16	\$0 70	\$140 86
American Cultivator Publishing Company,	44 92	1 16	46 08
American Fireworks Company, .	114 28	69	114 97
American Jewel Company, . . .	291 50	46	291 96
American Paper Stock Company,	143 76	86	144 62
American Stable Company, . . .	89 85	3 05	92 90
American Typographic Company,	218 87	-	218 87
American Wholesale Grocery Company,	778 31	5 48	783 79
Amoroso, Inc.,	148 25	2 96	151 21
Andrews Dykeman Company, . .	134 77	67	135 44
Apsley Rubber Company,	9,362 33	45 81	9,408 14
Archibald Wheel Company, . . .	1,647 09	8 23	1,655 32
Auto Renting Company,	44 92	-	44 92
Auto Sales Company,	17 97	-	17 97
Automobile Lighting Company, .	80 79	1 15	81 94
Automobile Omnibus Company, .	57 50	-	57 50
Ayer Tanning Company,	1,163 55	3 10	1,166 65
B. F. Phillips Company,	211 02	1 06	212 08
B. F. Smith Construction Com- pany,	662 19	3 11	665 30
Baer Clothing Company,	62 89	32	63 21
Baker Construction Company, Inc.,	47 44	2 51	49 95
Baldwin Chain and Manufactur- ing Company,	1,491 15	7 45	1,498 60
Bangs & Ramsey Express Com- pany,	76 37	30	76 67
Barker Lumber Company,	221 13	1 10	222 23
Bartlett Box and Lumber Com- pany,	269 55	90	270 45
Barton Child Company,	106 02	53	106 55
Baseball Magazine Company, . .	48 21	20	48 41
Bath Grinder Company,	831 11	4 44	835 55
Bay State Cotton Corporation, . .	6,065 37	39 22	6,104 59
Bay State Dredging Company, Ltd.,	1,139 29	3 42	1,142 71
Bay State Packing Company, . . .	75 47	38	75 85
Bay State Sign Company,	42 22	21	42 43
Beacon Finance Company,	8 98	29	9 27
Beacon, Inc.,	327 05	1 63	328 68
Bean Shoe Company, Inc.,	26 95	1 67	28 62
Bear Creek Oil Company,	7 14	-	7 14
Bedford-Willis Company,	251 58	-	251 58
Belisle Printing and Publishing Company,	94 52	1 79	96 31
Belmont Spring Water Company,	174 30	87	175 17
Bennett's, Inc.,	269 55	4 04	273 59
Berkeley Trust Associates, Inc., .	9 88	05	9 93

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
Berkshire Motors Company,	\$343 22	\$1 14	\$344 36
Berkshire Vinegar Company,	235 40	1 18	236 58
Beverly Chemical and Supply Company,	10 00	06	10 06
Beverly Confectionery Company,	10 78	22	11 00
Bianco Brothers Company,	19 40	60	20 00
Blacker & Shepard Company,	215 64	68	216 32
Blanchard & Co., Inc.,	154 63	93	155 56
Bon-Ton Millinery Company,	53 91	—	53 91
Bonnie Brae Farms, Inc.,	30 54	61	31 15
Boston Arena Company,	1,257 90	6 29	1,264 19
Boston Bolt and Iron Company,	287 52	1 34	288 86
Boston Book Company,	1,239 93	10 43	1,250 36
Boston Builders Finish Company, Boston Condensed Milk Com- pany,	21 56	12	21 68
Boston Gazette Company,	2,521 92	12 60	2,534 52
Boston Hat and Bonnet Frame Company,	60 28	—	60 28
Boston Holding Company,	26 95	—	26 95
Boston Institute, Inc.,	80 00	40	80 40
Boston Sash Weight Company,	16 17	53	16 70
Boston Stitching and Plaiting Company,	192 27	1 15	193 42
Boston Store, Inc.,	5 75	—	5 75
Boston Upholstering Company,	140 34	4 77	145 11
Boston Willow Furniture Com- pany,	269 55	1 35	270 90
Boyden & Co., Inc.,	117 34	59	117 93
Braleys Sporting Goods Company, Broadway Pharmacy,	18 32	05	18 37
Brockton Box Toe Corporation,	26 57	—	26 57
Brockton Die Company,	17 97	31	18 28
Brockway-Smith Corporation,	73 62	—	73 62
Brookline Press,	157 30	3 14	160 44
Brown-Binniam Company,	3,434 03	17 75	3,451 78
Brown Garage and Carriage Com- pany,	15 09	—	15 09
Brown's Enamel Works, Inc.,	71 88	3 83	75 71
Bruce-Hibbard Electric Com- pany,	143 76	55	144 31
Builders Iron and Steel Company, Bullard Company,	14 16	10	14 26
Bullock Thread and Twine Com- pany,	419 41	7 29	426 70
Bunkio Matsuki Corporation,	87 53	87	88 40
Burkinshaw Knife Company,	54 28	27	54 55
Burleigh & Martin, Inc.,	92 90	42	93 32
Burns Jewelry Manufacturing Company,	27 67	22	27 89
	40 61	—	40 61
	51 75	—	51 75
	42 82	—	42 82

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
Burton Dentists, Inc.,	\$43 48	—	\$43 48
Butler Chuck Company,	89 85	\$2 42	92 27
Butman & Cressey Company,	287 52	2 21	289 73
C. & C. Raincoat Company,	89 85	45	90 30
C. D. Wright Company,	98 83	1 98	100 81
C. E. Davenport Company,	56 60	23	56 83
C. H. Batchelder Company,	662 37	1 99	664 36
C. I. Nesmith Company,	33 74	67	34 41
C. W. Luce & Co., Inc.,	292 01	5 94	297 95
C. W. Stone Company,	62 66	31	62 97
Cape Light, Heat and Power Company,	17 97	05	18 02
Carstens Packing Company,	1,556 30	2 00	1,558 30
Carter & Woodman Company,	8 00	—	8 00
Carter Ticket Company,	201 62	4 43	206 05
Caverly-Plumer Company,	20 70	—	20 70
Caxton Society, Inc.,	102 39	2 45	104 84
Central Cloak Company,	106 99	53	107 52
Central Garage, Inc.,	50 31	—	50 31
Central Hard Fibre Company,	40 25	20	40 45
Central Ice Manufacturing Com- pany,	582 22	2 91	585 13
Centreville Wine Company,	89 85	45	90 30
Ceylon Tea Growers, Inc.,	62 82	31	63 13
Champion-Draper Company,	17 97	—	17 97
Champion Spark Plug Company,	30 00	—	30 00
Charles E. Perry Company,	219 89	1 75	221 64
Charles F. Page Company,	395 34	4 88	400 22
Charles P. Whittle Manufacturing Company,	187 31	1 22	188 53
Charles S. Gove Company,	161 73	81	162 54
Charles S. Hodsdon Company,	59 30	30	59 60
Charles West Lumber Company,	143 76	72	144 48
Chattel Loan Company,	1,347 75	67 67	1,415 42
Chelsea Investment Association, Inc.,	58 11	35	58 46
Chelsea Twenty Associates, Inc.,	16 29	—	16 29
Church's Booking Office, Inc.,	17 97	—	17 97
Ciambelli Drug Company,	31 91	1 34	33 25
Cincotta Cusolito Company,	30 18	—	30 18
Clark & Smith Company,	628 95	3 14	632 09
Clarke Printing Company,	16 35	—	16 35
Cleghorn Clothing Company,	80 86	40	81 26
Coates Clipper Manufacturing Company,	202 16	4 45	206 61
Colonial Bed Company,	143 76	7 66	151 42
Colonial Engraving Company,	215 64	2 16	217 80
Columbia Comb Company,	116 80	50	117 30
Columbia Manufacturing Com- pany, Inc.,	89 85	5 21	95 06

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
Columbia Securities Company,	\$316 27	\$3 53	\$319 80
Columbian Furniture Company,	53 87	1 00	54 87
Common Sense Gum Company,	305 92	8 87	314 79
Commonwealth Avenue Phar- macy, Inc.,	80 86	4 12	84 98
Commonwealth Garage, Inc.,	20 66	1 25	21 91
Consolidated Canoe Works, Inc.,	12 57	43	13 00
Cooper & Cooper Company,	23 18	60	23 78
Co-operative Fund, Inc.,	274 40	1 37	275 77
Corporation Security Company,	5 39	27	5 66
Crown Laundry Company,	53 91	2 69	56 60
Crown Packing Company,	71 88	36	72 24
Cummings Machine Works,	123 39	68	124 07
Curtis Drug Company,	10 78	-	10 78
Curtis Provision Company,	28 35	-	28 35
Cushing Medical Supply Com- pany,	251 58	12 64	264 22
Dadmun Company,	107 82	54	108 36
Dalton-Ingersoll Manufacturing Company,	1,260 59	8 82	1,269 41
Daudelin & Cotton, Inc.,	21 11	-	21 11
Davies Rose & Co., Ltd.,	154 54	67	155 21
Day Emerson Shoe Company,	28 60	86	29 46
Demarest Heater Company,	64 69	25	64 94
Densmore Mercantile Corpo- ration,	14 07	-	14 07
Directory Publishing Company,	32 34	-	32 34
Dr. Mann Home Remedy Com- pany,	47 70	1 57	49 27
Dodge & Gray,	494 17	2 64	496 81
Dodge Furniture Company,	281 67	1 40	283 07
Donoghue Silk Company,	377 37	2 45	379 82
Douglas Granite Company,	48 51	-	48 51
Dow Surgical Battery Company,	85 71	43	86 14
Driscoll & Co., Inc.,	71 88	65	72 53
Dukelow & Walker Company,	43 12	21	43 33
Dustbane Manufacturing Com- pany,	366 58	3 67	370 25
Dyna-Como Company,	13 15	-	13 15
E. E. Lincoln Shoe Company,	43 12	-	43 12
E. G. Tutein & Co., Inc.,	114 28	3 81	118 09
E. L. Smith Company,	80 86	1 77	82 63
E. Noyes Whitcomb Company,	61 09	18	61 27
E. P. Scigliana & Co., Inc.,	6 10	04	6 14
E. R. Brown Beer Pump Com- pany,	38 74	-	38 74
East Douglas Clothing Company,	18 86	09	18 95
Eastern Metal and Refining Com- pany,	104 67	52	105 19
Eastern Showcase Company,	35 94	17	36 11

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
Eastern Underwriting Company,	\$138 97	\$3 58	\$142 55
Eaton Candy Company, . . .	10 78	—	10 78
Eco Manufacturing Company, . .	52 65	—	52 65
Economy Drug Company, . . .	25 15	43	25 58
Edward A. Tucker Company, . .	15 09	—	15 09
Edward A. Tucker, Inc., . . .	17 97	—	17 97
Edward Holden Company, . . .	125 79	—	125 79
Edwards & Poor Company, . . .	40 43	60	41 03
Edwin Cullin Company, . . .	20 21	—	20 21
Elliott's Hotel, Inc., . . .	28 50	68	29 18
Elston & Swift, Inc., . . .	44 92	27	45 19
Equitable Co-operative Associa- tion,	24 02	—	24 02
Essex Brass Foundry Company,	161 73	1 44	163 17
Essex Company, . . .	9,481 69	47 40	9,529 09
Essex Hosiery Company, . . .	1,292 04	9 04	1,301 08
Essex Investment Company, . .	67 38	62	68 00
F. A. Teeling Carriage Company,	8 62	—	8 62
F. H. Putnam Company, . . .	89 85	45	90 30
F. T. Morcombe White Company,	63 79	2 10	65 89
Falcon Press, . . .	35 16	10	35 26
Federal Paper Box Machinery Company, . . .	43 88	—	43 88
Felton-Turner Heating Company,	251 58	1 25	252 83
Finance Club, Inc., . . .	194 52	3 89	198 41
Fitchburg Real Estate and Loan Company, . . .	90 38	1 69	92 07
Foley's Clothing Store, Inc., . .	9 88	—	9 88
Ford & Allen, Inc., . . .	14 82	07	14 89
Four Seas Company, . . .	46 38	30	46 68
Framingham Commission House, Inc., . . .	73 37	75	74 12
Frank P. Bennett & Co., Inc., . .	118 60	65	119 25
Frank P. Brown Company, . . .	34 50	35	34 85
Franklin Clothing Company, . . .	89 85	60	90 45
Franklin Park Lumber Company,	296 50	1 48	297 98
Fred A. Loud Company, . . .	135 81	2 71	138 52
Fred D. Sperry Company, . . .	163 52	82	164 34
Fred S. & A. D. Gore Corporation,	89 85	4 57	94 42
G. B. Lawrence Company, . . .	119 59	2 13	121 72
G. C. Hudson & Co., Inc., . . .	158 15	79	158 94
G. H. Chessman Company, . . .	5 01	—	5 01
G. W. Lord Company, . . .	200 00	2 51	202 51
G. W. Peterson Company, . . .	8 62	08	8 70
Gale-Sawyer Company, . . .	251 58	75	252 33
Gambs & Bishop Company, . . .	53 91	4 13	58 04
Gardner General Foundry Com- pany, . . .	374 81	1 87	376 68
Geddis Remedy Company, . . .	18 52	—	18 52
George A. Turner Company, . . .	53 91	—	53 91

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
George C. Melville Company,	\$17 97	\$0 05	\$18 02
George F. Vester Company,	44 92	-	44 92
George H. Ball Company,	179 70	90	180 60
George H. Sallaway Company,	203 77	1 02	204 79
George M. Edgerton Company, Inc.,	14 34	06	14 40
George Miles Company,	20 48	10	20 58
George P. Bingham Company,	53 91	1 94	55 85
Georgetown Gas Company,	83 56	2 12	85 68
Globe Clothing Company,	92 40	-	92 40
Goldman Brothers Company,	34 92	-	34 92
Gordon & Sparrow Company,	197 67	99	198 66
Gould Box Toe Company,	19 76	-	19 76
Goward's Market Company,	44 92	-	44 92
Graham Company,	53 91	32	54 23
Graustein Company,	242 59	1 21	243 80
Gray & Davis, Inc.,	4,224 56	21 12	4,245 68
Greendale Gas Engine Company,	112 31	34	112 65
Greylock Hotel Company,	165 32	83	166 15
Grocers Supply Company, Ltd.,	41 51	31	41 82
Grout Automobile Company,	680 16	3 40	683 56
Guilford, Kendrick & Ladd, Inc.,	404 32	2 02	406 34
Gunning Boiler and Machine Com- pany,	35 94	19	36 13
Guy S. Leavitt Company,	152 74	-	152 74
H. and B. Manufacturing Com- pany,	92 09	1 23	93 32
H. C. Girard Company,	150 94	75	151 69
H. D. Hall Company,	35 94	36	36 30
H. M. Kinports Company,	85 57	1 96	87 53
H. Newman & Son, Inc.,	30 00	-	30 00
Hackett Brothers Company,	54 95	-	54 95
Halford Company,	137 65	7 16	144 81
Hall Automobile Specialties Com- pany,	14 37	-	14 37
Hallstone Electric Company,	38 20	77	38 97
Hamlin Street Sprinkler Company,	89 85	23	90 08
Hampden Creamery Company,	185 01	90	185 91
Hampshire Furniture Company,	107 82	-	107 82
Hanseom Construction Company,	575 04	5 27	580 31
Harrington Manufacturing Com- pany,	101 08	50	101 58
Harriott Company,	45 00	-	45 00
Harry Eldredge Goodhue Com- pany,	89 85	1 79	91 64
Harry Sacks & Co., Inc.,	23 27	-	23 27
Hart Private Hospital, Inc.,	53 91	54	54 45
Haverhill Base Ball & Athletic Association,	10 78	30	11 08
Haverhill Construction Company,	162 00	1 05	163 05

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
Haverhill Motor Mart, Inc.,	\$53 91	\$1 04	\$54 95
Haverhill Supply Company,	44 92	—	44 92
Henry F. Farrow Company,	150 94	3 01	153 95
Henry Gray Company,	62 31	31	62 62
Hercules Motor Truck Company,	122 10	3 66	125 76
Hertig Furnace Company,	49 59	—	49 59
Hetherston Importing Company,	426 78	14 23	441 01
Highland Paint and Wall Paper Company,	71 88	72	72 60
Hill Dryer Company,	224 62	1 12	225 74
Hodgson, Kennard & Co., Inc.,	1,076 40	10 76	1,087 16
Hoffecker Company,	86 25	43	86 68
Holbrook Manufacturing Com- pany,	207 93	1 00	208 93
Hollander Motor Company,	179 70	1 62	181 32
Holyoke Box and Lumber Com- pany,	133 87	28	134 15
Hooper Printing Company,	82 66	42	83 08
Howe Stove and Furniture Ex- change, Inc.,	36 02	18	36 20
Hoyt Company,	351 92	10 90	362 82
Hutchinson's Pharmacy, Inc.,	35 94	20	36 14
Hy-Sil Manufacturing Company,	36 40	—	36 40
Ideal Dental Laboratory, Inc.,	26 95	21	27 16
Interstate Oil Company,	21 56	—	21 56
Italian Co-operative Company of Weymouth,	9 70	—	9 70
J. A. Keating Company,	89 85	27	90 12
J. A. Selsman Company, Bankers, Inc.,	22 31	11	22 42
J. B. Judkins Company,	801 91	4 81	806 72
J. D. Gosselin Company,	89 85	—	89 85
J. E. Paris Company,	198 80	99	199 79
J. F. Williams Company,	12 57	25	12 82
J. G. Bridge Company,	171 97	1 45	173 42
J. G. Gallishaw Company,	44 92	3 05	47 97
J. G. Walker & Son Corporation,	199 28	1 60	200 88
J. L. Legein Ice Cream Company,	79 96	1 60	81 56
J. Lipsitz Company,	359 40	1 73	361 13
J. Nardi Company,	83 02	2 73	85 75
J. S. Round & Co., Inc.,	19 40	56	19 96
J. V. Abbott Manufacturing Com- pany,	57 50	25	57 75
Jamaica Plain Auto Station, Inc.,	39 30	25	39 55
James Barrett Manufacturing Company,	521 13	2 60	523 73
John Cashman & Sons Company,	251 58	66	252 24
John Cavanagh & Son Building Moving Company,	258 26	8 52	266 78
John Chmiell Company,	89 85	1 34	91 19

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
John Foster Company,	\$1,240 05	\$9 51	\$1,249 56
John Harriott, Inc.,	8 62	04	8 66
John J. Cluin Company,	44 92	11	45 03
John O'Connell, Inc.,	36 65	1 20	37 85
John Quin & Son Company,	418 73	3 63	422 36
John W. Crooks Chocolate Com- pany,	175 47	5 12	180 59
John W. Moore, Inc.,	16 17	04	16 21
Johnson-Jordan Lumber Com- pany,	122 19	43	122 62
Jordan-Goodridge Company,	137 38	42	137 80
Jos. M. Wade Publishing Com- pany,	89 85	45	90 30
Karl Andren Company,	179 70	5 51	185 21
Kelly Leather Goods Company,	34 21	34	34 55
Keniston Engineering Company,	89 85	52	90 37
Kennard Thomas Company,	179 70	90	180 60
Kenney Brothers Company,	160 11	80	160 91
Kensington Press, Inc.,	16 53	33	16 86
Kimball Aeroplane Company,	12 93	-	12 93
King Mining Company,	85 00	2 87	87 87
King Printing Company,	76 37	2 01	78 38
Kinney Heating and Supply Com- pany,	34 53	-	34 53
Kinney Manufacturing Company,	1,182 12	5 91	1,188 03
Kleno Manufacturing Company,	17 97	-	17 97
L. G. Fisk-Mooers Company,	359 40	1 75	361 15
Labelle Gas Regulator Company,	20 70	-	20 70
Lambert Morin Automobile and Carriage Company,	62 89	1 26	64 15
Lamere & Robinson Company,	57 00	71	57 71
Lane & Co., Inc.,	342 27	1 71	343 98
Lang & Jacobs Company,	89 85	45	90 30
Lawler Printing Company,	61 15	2 74	63 89
Lawnerest Inn Company,	71 16	2 37	73 53
Lawrence B. Smith Company,	400 96	2 00	402 96
Leavitt's Scotch Polish Company,	23 63	-	23 63
Leicester Polar Spring Company,	21 56	-	21 56
Leighton Roofing Company,	15 09	50	15 59
Leominster Electric Company,	23 86	24	24 10
Leona Mining Company,	70 26	42	70 68
Lewis A. Brown Company,	359 40	2 87	362 27
Lewis F. Small, Inc.,	17 97	-	17 97
Lincoln Brothers Company,	34 14	-	34 14
Linscott Motor Company,	364 79	2 61	367 40
Linscott Supply Company,	361 75	2 18	363 93
London Harness Company,	808 65	8 08	816 73
Lord Manufacturing Company,	37 73	-	37 73
Lovells, Inc.,	71 88	40	72 28
Lozier Motor Company of Boston,	89 85	46	90 31

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
Lunt Moss Company,	\$682 41	\$2 41	\$684 82
Lynch Company,	172 51	86	173 37
Lyon Company,	160 25	81	161 06
Lytic Amusement Company, . .	168 01	3 86	171 87
M. J. Silva Company,	19 04	76	19 80
MacDonald Ice Cream Company,	23 36	—	23 36
MacLean Produce Company,	80 86	1 43	82 29
Madam Whitney Toilet Com- pany,	8 40	—	8 40
Magee Furnace Company,	2,064 32	10 32	2,074 64
Majestic Company,	215 64	1 29	216 93
Malden City Lumber Company, .	661 29	2 44	663 73
Malden Grain Company,	30 54	20	30 74
Manhattan Company,	19 40	65	20 05
Mansfield Cracker Company, . .	401 53	2 00	403 53
Mansfield Drug Company,	62 89	38	63 27
Mansfield Printing Company, . .	15 52	52	16 04
Manufacturers Shoe Trimming Company,	51 68	2 01	53 69
Marcuson & Levy, Inc.,	97 03	28	97 31
Market Supply Company,	144 82	72	145 54
Marlborough Times Publishing Company,	10 78	—	10 78
Massachusetts Fuel Saving Radi- ator Company,	26 00	—	26 00
Massachusetts Investment Com- pany,	19 49	09	19 58
Massachusetts Net Company, . . .	736 98	12 12	749 10
Massasoit Company,	547 72	3 83	551 55
Matthew F. Sheehan Company, . .	359 40	2 40	361 80
Mayflower Laundry Company, . .	116 80	2 14	118 94
Maynard & Co., Inc.,	876 03	3 07	879 10
McCabe & Finzel Company,	26 95	54	27 49
McKenzie Engraving Company, . .	118 74	1 00	119 74
McLean-Jones Oil and Supply Company,	129 07	77	129 84
McMinn & Quigley Steel Com- pany,	53 51	32	53 83
Mellish & Byfield Manufacturing Company,	120 39	72	121 11
Metropolitan Air Goods Com- pany,	84 45	1 26	85 71
Middlesex Co-operative Garden Company,	64 69	39	65 08
Miller Brothers, Inc.,	279 97	4 94	284 91
Mitchell Press,	11 14	41	11 55
Monarch Valve and Manufactur- ing Company,	792 29	4 49	796 78
Moore Drop Forging Company, . .	217 43	68	218 11
Motor Specialties Company, . . .	80 86	3 40	84 26

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
Muir's Laundry, Inc.,	\$62 89	—	\$62 89
Nashua Specialty Company,	80 86	\$0 96	81 82
Natick Pressed Stone Company,	52 40	—	52 40
National Credit Company,	5 39	—	5 39
National Investment and Security Company,	215 64	1 62	217 26
National Knitting Company, Inc.,	150 94	80	151 74
National Manufacturing Com- pany,	309 08	56	309 64
National Matzo Company of Boston,	20 98	—	20 98
National Publishing and Trading Company,	28 75	17	28 92
Neal Pond Ice Company,	35 94	—	35 94
Nelson Color Company,	104 22	63	104 85
Nevelson Machine Company,	35 04	1 10	36 14
New Bedford Auto Company,	35 94	—	35 94
New Can Company,	233 61	7 70	241 31
New England Biscuit Company,	255 17	1 02	256 19
New England Cloak and Suit Company,	181 49	91	182 40
New England Die Company,	5 57	06	5 63
New England Engineer, Inc.,	6 90	23	7 13
New England Index Company,	21 31	—	21 31
New England Live Stock Com- pany,	157 23	94	158 17
New England Pant Company,	32 34	—	32 34
New England Reed Company,	589 05	2 95	592 00
New England Tanners' Egg Com- pany,	16 17	24	16 41
New York Mattress Company,	161 73	81	162 54
Newburyport Broom Company, Inc.,	9 88	17	10 05
Newburyport Fish Cold Storage Company,	296 50	1 48	297 98
Newport Fisheries, Ice and Cold Storage Company,	464 52	1 93	466 45
Nobscot Mountain Spring Com- pany,	242 18	1 21	243 39
Norcross Brothers Company,	4,341 48	36 19	4,377 67
Norfolk Blanket Cleansing Com- pany,	8 98	06	9 04
North Shore Breeze Company,	25 15	49	25 64
North Shore Transportation Com- pany,	17 97	—	17 97
Northrup Hotel Company,	43 12	29	43 41
Norton Water Motor Company,	12 79	—	12 79
Noshake Grate and Heating Com- pany,	106 20	3 50	109 70

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
O. W. Lord Company,	\$79 53	\$0 40	\$79 93
Ocean Mills Company,	142 14	71	142 85
Office Appliance Company,	35 94	—	35 94
Office Specialties de Luxe, Inc.,	99 55	50	100 05
Oran McCormick Publishing Com- pany,	35 94	1 26	37 20
Orent & Co., Inc.,	174 30	46	174 76
Oscar T. Gove Company, Inc.,	128 48	58	129 06
Oxford Rubber Company,	434 87	4 30	439 17
Oxidite Manufacturing Company,	25 87	—	25 87
P. Creedon Company,	215 64	43	216 07
P. H. Prior Company,	370 25	75	371 00
P. J. Imberger & Son, Inc.,	44 92	26	45 18
Palmer Hunter Lumber Com- pany,	449 25	1 27	450 52
Palmer Renting Company,	147 35	5 79	153 14
Pamott Mines Company,	90 00	59	90 59
Park Amusement Company,	17 97	10	18 07
Parker Brothers Iron Company,	67 74	2 50	70 24
Parker's Store, Inc.,	21 56	—	21 56
Parsons Manufacturing Company,	413 31	2 48	415 79
Paye & Baker Manufacturing Company,	578 16	10 99	589 15
Payson Mitchell Company,	89 85	1 80	91 65
Pean Medical Company,	32 83	58	33 41
Pemberton Sales Company,	52 11	89	53 00
Pentucket Shoe Trimming Com- pany,	17 97	45	18 42
Peoples Drug Store Company,	24 25	—	24 25
Peoples Express, Inc.,	44 92	—	44 92
Peoples' Furniture Company,	71 88	48	72 36
Perfected Mantle Company,	81 76	—	81 76
Perfection Wet Wash Laundry Company,	89 85	90	90 75
Perkins & Co., Inc.,	251 58	1 17	252 75
Perlmutter Brothers Company, Inc.,	35 94	18	36 12
Perry & Ayers, Inc.,	7 18	07	7 25
Perry Mason Company,	6,080 72	29 39	6,110 11
Phenix Securities Company,	5 39	—	5 39
Philip Holland, Inc.,	50 74	46	51 20
Philip Slater Company,	7 90	—	7 90
Pickett Plastic Plug Company,	8 08	—	8 08
Picture Shop, Inc.,	35 94	—	35 94
Pierce & Barnes Company,	21 56	14	21 70
Pierson Pharmacy Company,	143 76	1 92	145 68
Pike Tobacco Company,	39 53	95	40 48
Pitt Soap Company,	14 37	23	14 60
Plymouth Manufacturing Com- pany,	75 72	45	76 17

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
Plymouth Seam Face Granite Company,	\$110 19	\$0 72	\$110 91
Post Office Pharmacy, Inc.,	64 69	1 15	65 84
Potter Welding and Brazing Com- pany,	44 92	89	45 81
Practical Politics, Inc.,	6 46	-	6 46
Prince Medicine Company,	50 63	1 00	51 63
Prospect Auto Company,	48 87	-	48 87
Puritan Mills,	216 19	8 86	225 05
Purity Confectionery Company,	64 69	32	65 01
Queensbury Mills,	2,962 01	88 86	3,050 87
Quiney Electric Light and Power Company,	2,575 55	9 87	2,585 42
Quinsig Ice Company,	7 18	-	7 18
R. Ardolino & Co., Inc.,	25 15	80	25 95
R. F. Dodge Company,	26 95	-	26 95
R. Holman Company,	104 22	3 31	107 53
Ranelegh Hotel Company,	17 93	-	17 93
Ray Detective Agency, Inc.,	21 56	-	21 56
Revere Cloak and Suit Company,	62 53	58	63 11
Richard D. Kimball Company,	26 46	-	26 46
Richmond Garage and Motor Company,	71 88	25	72 13
Riverview Laundry Company,	247 44	2 59	250 03
Robt. R. McNutt, Inc.,	8 08	24	8 32
Robinson-Brockway Manufactur- ing Company,	101 71	67	102 38
Rondeau Engraving Company,	12 93	04	12 97
Rosenguard Furniture Company,	168 91	51	169 42
Roxbury Building Repair Com- pany, Inc.,	53 91	-	53 91
Royal Furniture Company,	179 64	1 08	180 72
Rubber Fibre Company,	17 97	-	17 97
S. L. Gabriel Company,	30 54	-	30 54
S. W. Loomis Company,	252 60	1 26	253 86
Salem Press Company,	62 89	1 14	64 03
Sally's Embroidery and Cleansing Company,	33 78	-	33 78
Savory Express Company,	260 56	1 30	261 86
Saxwood Manufacturing Com- pany,	71 88	34	72 22
Scandinavian Co-operative Gro- cery Union,	71 26	57	71 83
Schipper Brothers Coal Mining Company, Inc.,	64 08	38	64 46
Scott's Laundry Company,	172 51	48	172 99
Security Safe Deposit Company,	1,437 60	-	1,437 60
Seth W. Fuller Company,	92 36	2 68	95 04
Shadduck & Normandin Com- pany,	110 40	73	111 13

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
Shawmut Waxed Paper Com- pany,	\$57 95	\$0 29	\$58 24
Sheedy Amusement Company,	27 00	—	27 00
Sherick & Brash Company,	13 47	38	13 85
Sherwin Wood Company,	44 92	—	44 92
Shultz-Goodwin Company,	826 62	8 68	835 30
Silas Pierce & Co., Ltd.,	2,095 89	6 96	2,102 85
Silver Lake Ice Company,	269 55	7 83	277 38
Small, Maynard & Co., Inc.,	1,123 12	5 61	1,128 73
Smith & Corcoran Company,	21 77	—	21 77
Smith Dine & Rubin Company,	292 55	88	293 43
Smith Hardware Company,	301 89	1 51	303 40
Smithmade Suspender Company, Somerset Coal Company,	113 21	1 69	114 90
South Bay Storage Warehouse Company,	48 19	24	48 43
South End Motor Car Company, Southgate Press — T. W. Ripley Company,	89 85	54	90 39
Springfield Loan Association,	234 50	4 70	239 20
Springfield News Company,	539 10	1 62	540 72
St. Clairs', Inc.,	10 96	54	11 50
St. Louis Rubber Company,	307 21	92	308 13
Stamafix Company,	190 03	95	190 98
Standard Handle and Lumber Company,	165 32	83	166 15
Standard Lens Company,	8 98	02	9 00
Standard Motor Car Company of Massachusetts,	12 60	—	12 60
Standard Pocahontas Coal Com- pany,	14 80	—	14 80
Stearns & Waterman Company,	40 97	20	41 17
Stetson Coal Company of Boston, Stone & Foster Lumber Com- pany,	89 85	27	90 12
Story-Simmons Company,	53 91	—	53 91
Stratton Automobile Company,	777 54	2 33	779 87
Suffolk Decorating Company,	862 56	4 31	866 87
Sullivan & Daly Company,	88 44	35	88 79
Summit Thread Company,	17 97	—	17 97
Sumner Crosby & Son, Inc.,	8 48	—	8 48
Sunset Grocery Company,	202 16	1 01	203 17
Swiss Cleansers and Dyers, Inc.,	9 00	03	9 03
Sydney K. Cohen Importing Com- pany,	328 68	1 15	329 83
Sylvester Brothers Company,	35 94	20	36 14
T. H. O'Donnell & Co., Inc.,	8 98	—	8 98
Tarbett Machine Company,	323 46	1 63	325 09
Taunton Evening News,	8 62	—	8 62
	161 73	3 23	164 96
	59 30	41	59 71
	161 73	1 22	162 95

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
Taxi Motor Cab Company of Boston,	\$476 20	\$16 66	\$492 86
Telepost Company of Massachu- setts,	17 97	—	17 97
Temple Stuart Company,	76 82	64	77 46
Thomas D. Gard Company, Inc., .	64 69	32	65 01
Thomas J. Grey Company,	71 88	20	72 08
Thomas J. Hind, Inc.,	17 97	—	17 97
Thomas J. Shea Company,	8 98	—	8 98
Thomas O'Connell Manufacturing Company,	94 34	47	94 81
Tichnor Brothers, Inc.,	260 56	8 85	269 41
Torrey-Epstein Company,	10 78	—	10 78
Totem Manufacturing Company, .	265 95	1 33	267 28
Transfer Pharmacy, Inc.,	37 73	13	37 86
Traveler Shoe Company,	48 75	—	48 75
Tremont Investment Company, . .	195 69	4 83	200 52
Tremont Securities Company, . . .	18 02	—	18 02
Trombly Jewelry Company,	1,347 75	30 99	1,378 74
Union Caliper Company,	220 13	1 77	221 90
Union Desk Company,	14 55	—	14 55
Union Supply Company,	179 26	89	180 15
United Hospital Drug Company, Inc.,	24 74	—	24 74
United States Column Company, University Garage, Inc.,	426 50	1 28	427 78
Up-to-Date Manufacturing Com- pany,	10 36	06	10 42
Uxbridge and Whitinsville Trans- cript Publishing Company,	50 31	18	50 49
Van-Car Leather Company,	8 98	02	9 00
Viscoloid Company,	19 76	—	19 76
W. A. Frederick Company,	8,203 30	32 81	8,236 11
W. A. Norton Company,	89 45	3 58	93 03
W. & S. Blackinton Company, . . .	21 56	11	21 67
W. Bert Lewis Shoe Company, . . .	942 90	4 71	947 61
W. E. Smith Company,	309 08	85	309 93
W. F. Godber Company,	8 98	—	8 98
W. H. Ingalls Company,	71 70	1 43	73 13
W. K. Farrington Press,	168 91	1 69	170 60
W. M. McDonald Company, Inc., . .	32 34	1 61	33 95
W. O. Simmons Company, Inc., . .	244 78	86	245 64
W. P. Goode Brush Company,	95 45	—	95 45
W. T. Cardy & Sons Company, . . .	113 21	56	113 77
W. T. Shackley & Son Company, . .	71 88	—	71 88
Wachtel-Pickert Company,	265 05	1 71	266 76
Walbuck-Crayon Company,	145 55	75	146 30
Walworth-English-Flett Company, Ward, Drouet & Foster, Inc., . . .	43 12	87	43 99
Warren Garage Company,	604 63	3 63	608 26
	596 96	4 97	601 93
	41 24	74	41 98

	Collected on Account of Corporation Tax for 1912.	Interest.	Totals.
Washburn Brothers Company,	\$165 03	\$0 69	\$165 72
Washburn Realty Trust, Ltd.,	174 06	52	174 58
Washington Investment and Loan Association,	53 91	16	54 07
Watson Blodd Company,	54 71	—	54 71
Wellington-Pierce Company,	448 01	1 34	449 35
Wentworth-Lister Company,	29 38	—	29 38
West Varnish Company,	40 43	80	41 23
Whitcomb Jewelry Company, Inc.,	39 08	21	39 29
White Eagle Provision Company, Inc.,	21 56	—	21 56
White Star Egg and Fruit Com- pany,	58 22	1 16	59 38
Whitney Law Corporation,	220 52	1 69	222 21
Whittier Woodenware Company,	539 10	2 79	541 89
Whittredge Shoe Company, Inc.,	59 30	—	59 30
Wilkinson Company, Inc.,	107 82	2 16	109 98
William Allen Sons Company,	294 70	1 52	296 22
William H. Sherman Company,	179 70	13 77	193 47
William J. Bride Company,	79 06	40	79 46
William J. Morgan Company,	31 44	—	31 44
William L. Browne Electric Com- pany,	111 77	56	112 33
William Porter & Son, Inc.,	561 56	16 53	578 09
Willis C. Bates Company,	105 69	3 51	109 20
Willsite Flooring Company, Inc.,	73 67	44	74 11
Winchester News Company,	34 50	15	34 65
Wireless Package Carrier Com- pany,	8 08	32	8 40
Woburn Leather Company,	26 95	01	26 96
Wollaston Center Garage Com- pany,	179 70	1 20	180 90
Wollaston Coal Company,	179 70	1 20	180 90
Woman's Shop, Inc.,	404 32	2 02	406 34
Woodbury & Co., Inc.,	168 91	42	169 33
Woodman Lumber Company,	8 98	08	9 06
Woodward-Reopell Company,	14 55	—	14 55
Worcester Co-operative Market Company,	85 17	51	85 68
Woronoco Heating and Plumb- ing Company,	31 05	27	31 32
Wrentham Hat Company,	222 46	1 33	223 79
Wright Cutter Company,	309 15	3 10	312 25
Total,	\$167,668 35	\$1,391 22	\$169,059 57

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, 1913, 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.
1913. Jan. 9	New York,	Filio Beaudoin,	Escaped prisoner,	Hampden,	Not in proper form.
Jan. 11	New York,	Filio Beaudoin,	Breaking and entering, escaped prisoner.	Hampden,	Lawful and in proper form.
Jan. 15	New York,	Nathan Sokolosky,	Desertion,	Suffolk,	Lawful and in proper form.
Jan. 16	Pennsylvania,	Gudio Leoni, <i>alias</i> ,	Larceny,	Suffolk,	Lawful and in proper form.
Jan. 23	New York,	James L. Gates and Clarence W. Clifford.	Larceny,	Hampden,	Lawful and in proper form.
Jan. 24	New York,	Annedia M. Leonard, <i>alias</i> ,	Larceny,	Suffolk,	Lawful and in proper form.
Jan. 29	Michigan,	James P. Bell,	Larceny,	Suffolk,	Lawful and in proper form.
Feb. 6	New York,	Wallace M. Swift,	Desertion,	Suffolk,	Not in proper form.
Feb. 8	New York,	Edward Lyons,	Desertion,	Middlesex,	Lawful and in proper form.
Feb. 11	Pennsylvania,	Abraham Lincoln Midgett,	Nonsupport of wife and minor children.	Middlesex,	Lawful and in proper form.
Feb. 21	Illinois,	Max Doodlesac, <i>alias</i> ,	Desertion of wife and minor children.	Suffolk,	Lawful and in proper form.
Feb. 25	New Hampshire,	Daniel Suckman,	Nonsupport,	Suffolk,	Lawful and in proper form.
Feb. 28	Vermont,	Peter A. Carroll,	Larceny,	Plymouth,	Lawful and in proper form.
Mar. 4	New York,	George M. Fisher, <i>alias</i> ,	Larceny,	Suffolk,	Lawful and in proper form.

Mar. 13	Texas		William Sacco				Larceny	Suffolk	Lawful and in proper form.
Mar. 14	New Jersey		Raymond C. Ellis			Nonsupport		Suffolk	Lawful and in proper form.
Mar. 14	Florida		Francis LeMoine			Larceny		Suffolk	Lawful and in proper form.
Mar. 20	California		Ernesto Ardolino, <i>alias</i> ,			Nonsupport		Suffolk	Lawful and in proper form.
Apr. 1	Maine		Hugh A. McCray			Desertion		Essex	Lawful and in proper form.
Apr. -	Pennsylvania		Robert Cushing Lincoln			Stubborn child		-	Not in proper form.
Apr. 11	Wisconsin		Israel Weisberg, <i>alias</i> ,			Desertion		Worcester	Lawful and in proper form.
Apr. 16	New York		William F. Smith, <i>alias</i> ,			Desertion		Suffolk	Lawful and in proper form.
Apr. 21	New York		Rudolph Benishek			Desertion		Suffolk	Lawful and in proper form.
May 5	Maryland		Jacob Gelezelo			Desertion		Suffolk	Lawful and in proper form.
May 7	New York		Frederick S. Flye			Larceny		Suffolk	Lawful and in proper form.
May 9	New York		Richard D. Isaacs, <i>alias</i> ,			Forgery		Suffolk	Lawful and in proper form.
May 12	California		Harry J. Lewis			Larceny		Suffolk	Lawful and in proper form.
May 19	Dominion of Canada		Charles V. Knightly			Forgery		Suffolk	Lawful and in proper form.
May 21	New York		Jacob Rosenberg, <i>alias</i> ,			Breaking and entering		Suffolk	Lawful and in proper form.
May 26	New York		Ralph A. Cavaliere			Desertion		Suffolk	Lawful and in proper form.
June 9	New York		Gactano Yacono			Assault with intent to kill		Middlesex	Lawful and in proper form.
June 10	New York		David Stagnan			Desertion		Suffolk	Lawful and in proper form.
June 18	New York		C. Wayman, <i>alias</i> ,			Larceny		Suffolk	Lawful and in proper form.
June 18	New York		John H. Canavan			Uttering		Suffolk	Lawful and in proper form.
June 19	New York		Charles S. Sutherland			Nonsupport		Suffolk	Lawful and in proper form.
June 23	New York		Eugene V. Shields			Nonsupport		Suffolk	Lawful and in proper form.

Date of Reference.	State or Country upon whose Executive Requisition was made.	Name of Fugitive.	Crime charged.	Venue of Prosecution.	Report.
1913. July 1	New York,	Raphael Yokel, alias,	Larceny,	Hampden,	Lawful and in proper form.
July 7	New York,	Abraham Shahood,	Abduction,	Suffolk,	Lawful and in proper form.
July 17	New York,	James M. Gould,	Forgery,	Suffolk,	Lawful and in proper form.
July 19	New York,	C. H. Kemp,	Forgery,	Suffolk,	Lawful and in proper form.
July 24	New York,	William D. Bell,	Larceny,	Suffolk,	Lawful and in proper form.
July 26	Pennsylvania,	James D. Sears,	Nonsupport,	Plymouth,	Lawful and in proper form.
Aug. 1	New York,	Ambrose J. Arthur,	Desertion,	Middlesex,	Lawful and in proper form.
Aug. 6	New York,	Joseph Goetti,	Assault and battery,	Suffolk,	Lawful and in proper form.
Aug. 6	Illinois,	Nathan Lazerowitz,	Desertion,	Suffolk,	Lawful and in proper form.
Aug. 6	Illinois,	Philip Levine,	Larceny,	Suffolk,	Lawful and in proper form.
Aug. 12	New York,	John E. Dalrymple and Zephie Saunders,	Escaped prisoners,	Suffolk,	Lawful and in proper form.
Aug. 13	Illinois,	Armand J. Lebel,	Larceny,	Suffolk,	Lawful and in proper form.
Aug. 15	New York,	Norman Foot,	Larceny,	Berkshire,	Lawful and in proper form.
Aug. 19	New York,	Carl Flaxman (requisition not granted),	Desertion,	Suffolk,	Lawful and in proper form.
Aug. 20	New York,	Lawrence B. Newhall,	Desertion,	Essex,	Lawful and in proper form.
Aug. 25	New York,	Wm. J. Lobinsky,	Escaped from institution,	Suffolk,	Lawful and in proper form.
Aug. 25	New York,	Carl Flaxman,	Desertion,	Suffolk,	Lawful and in proper form.
Aug. 25	New York,	Raymond Hutchinson,	Breaking and entering,	Norfolk,	Lawful and in proper form.
Aug. 26	Dominion of Canada,	William Goos, Jr.,	Larceny,	Suffolk,	Lawful and in proper form.

Sept. 8	New York,	Allan B. Croke,	Larceny,	Suffolk,	Lawful and in proper form.
Sept. 9	Maryland,	Felix Ryan,	Nonsupport,	Suffolk,	Lawful and in proper form.
Sept. 12	New York,	John Connolly, <i>alias</i> ,	Forgery,	Suffolk,	Lawful and in proper form.
Sept. 18	Washington,	Walter A. Thornton,	Forgery,	Suffolk,	Lawful and in proper form.
Sept. 22	New York,	Frank L. Patterson,	Desertion,	Suffolk,	Lawful and in proper form.
Sept. 22	Japan,	John Eells,	Perjury,	Hampden,	Lawful and in proper form.
Sept. 29	New York,	Charles Palioca,	Nonsupport of minor child,	Plymouth,	Lawful and in proper form.
Sept. 30	New Jersey,	William Shyne,	Forgery and uttering,	Suffolk,	Lawful and in proper form.
Oct. 4	Minnesota,	John H. Dow,	Desertion,	Essex,	Lawful and in proper form.
Oct. 2	Rhode Island,	Clarence E. Boston, <i>alias</i> ,	Lewd and lascivious cohabitation,	Worcester,	Lawful and in proper form.
Oct. 6	New York,	Albert Moras, <i>alias</i> ,	Larceny,	Essex,	Lawful and in proper form.
Nov. 1	Michigan,	Walter H. Bird,	Desertion,	Suffolk,	Lawful and in proper form.
Nov. 10	New York,	Benjamin J. Hartnett,	Desertion,	Suffolk,	Lawful and in proper form.
Nov. 13	Pennsylvania,	G. Hudson Swimm,	Desertion,	Suffolk,	Lawful and in proper form.
Nov. 14	New York,	William A. McNeil,	Desertion,	Suffolk,	Lawful and in proper form.
Dec. 4	Pennsylvania,	Philip Lynn, <i>alias</i> ,	Lewd and lascivious cohabitation,	Suffolk,	Lawful and in proper form.
Dec. 4	New York,	Patrick H. Coughlin,	Larceny,	Suffolk,	Lawful and in proper form.
Dec. 8	New York,	Philip Shapiro,	Desertion,	Suffolk,	Lawful and in proper form.
Dec. 15	District of Columbia,	Neil H. Stark, <i>alias</i> ,	Fraudulently procuring entertainment at an inn.	Suffolk,	Lawful and in proper form.
Dec. 17	Pennsylvania,	Joseph Sullivan,	Breaking and entering,	Norfolk,	Lawful and in proper form.
Dec. 27	New York,	Abraham Kohn,	Conspiracy to steal property of another.	Suffolk,	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, 1913, for examination and report thereon:—

Date of Reference.	State making the Requisition.	Name of Fugitive.	Crime charged.	Report.
1913. Jan. 7	California,	Manoel Pacheco Santana,	Abandonment of wife,	Lawful and in proper form.
Jan. 20	Virginia,	Charles L. Hanifer,	Forgery,	Lawful and in proper form.
Jan. 27	Illinois,	Harry Perkins,	Grand larceny,	Lawful and in proper form.
Feb. 20	Minnesota,	Mike Galla,	Robbery,	Lawful and in proper form.
Feb. 27	North Carolina,	Jordan Gregory, <i>alias</i> ,	Forgery,	Lawful and in proper form.
Apr. 4	Ohio,	John Doyle, <i>alias</i> ,	Stealing,	Lawful and in proper form.
Apr. 10	Maine,	Allan MacPherson,	Desertion,	Lawful and in proper form.
Apr. 25	New York,	Samuel Drucker,	Abandonment of minor children,	Lawful and in proper form.
May 3	Pennsylvania,	Jack Murphy,	Murder,	Lawful and in proper form.
May 12	New Jersey,	James W. Smith, <i>alias</i> ,	Breaking and entering, and larceny,	Lawful and in proper form.
June 13	Illinois,	J. H. Miller,	Confidence game,	Lawful and in proper form.
June 16	California,	Mary Brazil,	Grand larceny,	Lawful and in proper form.
Aug. 7	Illinois,	Fred Train,	Larceny,	Lawful and in proper form.

Aug. 7	Illinois,	Floyd N. Logan,	Larceny,	Lawful and in proper form.
Sept. 8	Nebraska,	Burton W. Saunders,	Obtaining money under false pretences,	Lawful and in proper form.
Sept. 17	Maryland,	Chester A. Brown,	Desertion,	Lawful and in proper form.
Oct. 29	Illinois,	Prof. Salisbury, <i>alias</i> ,	Confidence game,	Lawful and in proper form.
Dec. 1	New York,	Walter Robinson,	Violation of terms of parole,	Lawful and in proper form.
Dec. 19	Missouri,	Alex. Gaidzakain, <i>alias</i> ,	Embezzlement,	Lawful and in proper form.
Dec. 29	Illinois,	Gladys Loveridge,	Confidence game,	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.

